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NATIVE JUVENILES AND CRIMINAL LAW

PRELIMINARY STUDY OF NEEDS AND SERVICES IN SOME NATIVE COMMUNITIES OF QUEBEC

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Native Juveniles and Criminal Law
Preliminary Study of Needs and Services in some Native Communities of Quebec

by

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FOREWORD

Commissioned by the Department of Justice of the Government of Canada, this report aims "to determine to what extent the needs felt by young native offenders (in Quebec) are satisfied by the services offered by para-legal advisers or by other services subsequent to their coming into contact with the criminal justice system". In the first chapter, it identifies the problem area that forms the context of this particular question and identifies the preferred approach and techniques used to respond to it. In the second chapter, it relates, by means of descriptive reviews and commentaries, the remarks collected during the inquiry. Finally, in the third chapter, it discusses some possible scenarios for better satisfying the special needs of young native offenders with regard to information on the Young Offenders Act, their conflicts with the justice system, and the resources they can be supplied by their respective communities and specialized institutions. The report thus details the current situation in certain native communities of Quebec as more particularly regards their degree of satisfaction with the implementation of the Young Offenders Act and the dispensing of related services. Furthermore, that this situation may be improved, this report submits the following recommendation:

That the Department of Justice in light of the present report and its own information:

1) thoroughly examine, by means of specific studies, the role that para-legal advisers should play with respect to native juvenile offenders;

2) define, in consequence, the requirements for the training and professional supervision of these para-legal advisers;

3) promote the training of all personnel who work with native juvenile offenders, especially through education sessions dealing with general knowledge of native realities and the particular attitudes to be adopted in situations of cross-cultural exchange;

4) evaluate its native community information programs and, if need be, promote consultation mechanisms for better communication and greater efficiency of the said programs.

I. QUESTIONS OF METHOD

I. QUESTIONS OF METHOD

Before dealing with the problem area of our research, let us state at the outset the hypotheses upon which our report is based.

1. Native peoples have particular social, cultural and economic conditions, which distinguish them from the overall Canadian population;

2. These particular conditions place them in a disadvantageous position with respect to the justice process;

3. The very logic of the justice process directly influences the quality of relations between accused natives and the agents of the justice system;

4. In the face of historical change, native communities must consider new social control mechanisms that are faithful to their own peculiarities and efficient within the context of today's social conditions;

5. To support native communities in their search for new social control mechanisms, there is need to show understanding, flexibility and creativity.

1. THE PROBLEM

The social and economic conditions of the native populations are now known. For some years now, in fact, a number of studies have painted an exhaustive picture of them, clearly showing that a wide gulf persists today between the statistically average social economic conditions of a Quebecker or a Canadian and those of a citizen of Amerindian or Inuit origin.

Does this social disparity have as its corollary an equivalent inequality within the justice system? Investigators have asked themselves this question and answered in the affirmative. Hagan in particular has stated that the inequality is due not to discrimination stemming from court decisions but rather to the fact that identical sentences have different consequences for different individuals, depending on their social and economic status (reported by Griffiths and La Prairie 1981: 4 and Verdun-Jones and Muirhead 1979-80: 13-14). In other words, it is because two individuals of different social and economic status are treated in the same way that one of them suffers a form of discrimination, since the consequences of the decision will be more onerous for that person than for the other. The classic example is that of the same fine imposed upon two individuals of different circumstances, in which case one of them is in greater risk of going to prison because he does not have the money to pay. In such a case, the discrimination lies in the result.

In this regard, the collective situation of natives is a peculiar one. To those who would say that their fate is comparable to that of the disadvantaged, whatever their origin may be, we must point out that there are more disadvantaged persons among natives than among other ethnic groups, and that, all proportions being maintained, more of them come before the courts and are imprisoned. It must also be emphasized that

to a great many researchers, it is precisely by referring to Canada's colonial history that it is possible to understand both the current social and economic situation of the natives of this country and their rate of criminality, which is deemed distinctly high in comparison to that of the other ethnic groups (Finkler 1984: 1; Havemann et al. 1984: xxix; and La Prairie 1983: 340, among others).

Referring to this history and its consequences, notably as regards conflicts, contradictions and oppositions between groups, various persons on the social scene have for some years now adopted a definite position on the matter, and proposed measures designed to avoid the assimilation of natives and to promote their autonomy. Being pre-eminently political, this notion of self-determination is not without consequences for the justice system. In a federal-provincial conference in Edmonton in February 1975, the Ministers of Justice endorsed a declaration of principle that is important to recall here:

1. Native persons should be closely involved in the planning and delivery of services associated with criminal justice and native peoples.

2. Native communities should have greater responsibility for the delivery of criminal justice services to their people.

3. All non-native staff in the criminal justice system engaged in providing services to native people should be required to participate in some form of orientation training designed to familiarize them with the special needs and aspirations of native persons.

4. More native persons must be recruited and trained for service functions throughout the criminal justice system.

5. The use of native para-professionals must be encouraged throughout the criminal justice system.

6. In policy planning and program development, emphasis should be placed upon prevention, diversion from the criminal justice system to community resources, the research for further alternatives to imprisonment and the protection of young persons.

(quoted by Verdun-Jones and Muirhead 1979-80: 18)

Since the approval of this declaration of principle, various accomodations and a number of innovations have been introduced into the justice system so as to make it more acceptable to natives. In Quebec, notably, among these accomodations are those permitted by the attitude of the judges in the exercise of their duties, the creation of the circuit court of Abitibi. As for the innovations, they consist of new functions assigned to northern municipal corporations, diversionary powers granted to police officers, and the hiring of para-legal advisers who can come to the assistance of natives with legal problems. The account of the results achieved thanks to these accomodations and innovations remains to be drawn up. Indeed, no study has yet analyzed in depth the social consequences of these measures intended to improve the collective situation of natives in regard to criminality.

As we await the results of such research, a few questions on this subject may certainly be raised. Griffiths and LaPrairie in particular (1981: 21) have wondered to what extent the Edmonton declaration really took into consideration the overall situation of natives within Canadian society; to what extent, as well, it recognized the differences between the

various native groups, notably with respect to the community resources that they may or may not use to assist those of their members judged to be offenders; and finally, to what extent those who approved it truly considered the possible consequences of the "nationalization" of legal services, insofar as this process risks creating a new segregation of natives within society as a whole. These authors also pointed out that the Edmonton conference did not attempt to define what might be an "equitable justice" for natives: must it necessarily entail the creation of structures and measures exclusively reserved for natives, or is it possible to utilize structures and measures within the present justice system that can help achieve the desired goal? Lautt (1979: 90-97) and Rouland (1983b: 311), for their part, have emphasized the dangers of assimilation that now threaten these populations in spite of the accomodations and innovations that have been brought to the Euro-Canadian justice system. The perspective of these authors takes into account the cultural dimension of the justice system and the populations involved.

They pose the question of determining to what point a native acting within the Euro-Canadian justice is in fact serving the logic of that system, or on the contrary promoting the development of a native identity that is rid of its complexes in battling the discrimination, intentional or not, of the agents of the system.

As soon as one takes account of the cultural dimension of the Euro-Canadian justice system, one must necessarily ask oneself how far its logic and mechanisms square with the various native cultures. Traditionally, native peoples resolved conflicts and tensions threatening the group as a whole by means of individual or collective mechanisms. The effectiveness of their law was in no way impeded by the fact that it was not written down. Apprehended by each individual through oral tradition and the customs of the entire group, this law was not

made independent of other community activities. When the opportunity arose, certain individuals acted as mediators, thus helping the group as a whole to take careful consideration of the situation at hand, so as to find a solution that would promote harmony and social peace (Finkler 1976: 10-13; Morse 1980: 7; Rouland 1979; Zion 1982: 2).

The introduction of the Euro-Canadian society's concept of justice administration upset this traditional justice system - first because it was imposed, and second because its logic differed from the concept that prevailed and, we may assume, still prevails among these peoples. Indeed, the administration of state justice is more a process of confrontation ultimately intended to designate a guilty party than a process of conciliation. The properly native justice systems were characterized by such a process of conciliation. Futhermore, in the framework of state justice, specialized officials, generally without cultural or family ties with the native communities, apply written rules in accordance with a formal procedure and on the basis of a system of symbols that is alien to the tradition and culture of the native peoples. Some authorities feel that the natives, being accustomed to more flexibility, understand little or not at all the rules, objectives and symbolism of the Euro-Canadian justice system. The consequent result is a most deplorable confusion, and sometimes profound psychological and social traumas, when they have to answer for certain of their actions before the machinery of this law (Morse 1980: 1). For others, the pressure of the Euro-Canadian justice system has to date brought about the decline and will before long bring about the disappearance of traditional native social control, if nothing is done to change the status quo (Finkler 1976: 22; Keon-Cohen 1982: 240; Rouland 1983b: 311).

The recent passing in April 1984 of the Young Offenders Act raises this complex of questions once again. We may well ask, on the one hand, to what extent its underlying principles correspond to the aspirations of the native populations, and on the other, to what extent the mechanisms it utilizes actually respond to the special needs of native juveniles. Carol LaPrairie feels that there is every reason to believe that, in terms of the enforcement of this Act, young natives are also faced with the same discrimination of result as that faced by their elders in connection with the enforcement of the Criminal Code and related statutes:

> If... the juvenile justice system incorporates the values of the middle class, it may be assumed that it is likely to be more biased toward youth who do not fall within these norms. It may further be hypothesized that while the majority of youths who appear in juvenile court hearings are of low socio-economic status, the ones who most severely suffer the effects of discrimination because of lack of structural supports are Native juveniles.
>
> (LaPrairie 1983: 341)
>
> ...
>
> While the bulk of the research findings which exist to date address the demographic characteristics of Native adults in contact with the criminal justice system, [our] study demonstrates that the same characteristics apply to Native juveniles appearing in court. What is important in terms of the sentencing of Native juveniles is the significance of social factors in presentence reports and the recommendations of probation officers... Again, as a result of the disadvantaged social and economic position of Native juveniles, one must question the appropriateness of applying the same standards to groups with very different structural characteristics, even if the end sentencing result appears to be one of legal equality.
>
> (LaPrairie 1983: 342)

It must be emphasized here that Griffiths and LaPrairie's inquiry (1981) was conducted only within a single community at a time when the current Young Offenders Act was not yet in effect. LaPrairie herself stresses (1983: 348) that this was exploratory research and that there is now reason to conduct further investigation in different communities:

> Similar studies to the ones discussed in this paper must be undertaken in other communities, with consideration given to a number of processes, including social service networks, styles of policing, employment opportunities, and educational attainment. Consideration should also be given to the management of delinquent behaviour by the band itself and the structures that bands might develop to prevent and control delinquency as well as to interface with existing criminal justice structures.
>
> (Griffiths and LaPrairie 1981: 22)

The research program proposed here is a most wide-ranging one, and in our opinion deserves to be kept in mind when discussing the benefits of the new Young Offenders Act. For a number of authorities feel this to be a pioneering piece of legislation, "one of the most important statutes passed by the Parliament of Canada in recent years" (Cliche and Jacques 1984: 8)[translation]. Compared to its predecessor, the Young Offenders Act brings a new orientation to justice enforcement for young people under eighteen years of age.

Cliche and Jacques (1984: 17-34) have distinguished four basic themes in this new Act: age and criminal responsibility; relations between citizen and State; the moderated use of criminal law; and finally, the role played by the community. Here follows a summary of their comments.

The new Act affirms on principle that young people twelve to eighteen years old are capable of making decisions and assuming responsibility for their acts, though to a lesser degree than adults. Adolescents must assume this responsibility as members of the community, standing before society, and more particularly before the victims of their acts by making reparation, if possible, for the wrong done; they are also accountable for themselves for taking part in their own rehabilitation. In the face of the offence committed by these juveniles, the new Act maintains that society must be able to protect itself, while at the same time acknowledging the special needs of adolescents. The decisions handed down under this Act are therefore less severe than sentences issued to adults and take into account medical and psychological factors that may affect the behaviour of young people.

The second basic theme of the Act is the rights and responsibilities of parents toward their children, as well as society's responsibilities in regard to crime prevention. The Act maintains the principle that the State cannot arrogate the rights and responsibilities of parents toward their children even if the latter exhibit illegal behaviour. Children thus remain subject to parental authority, unless extraordinary circumstances require the limitation of that authority. From another standpoint, given that young people assume responsibility for their acts and must consequently answer for them before the law, the state recognizes their legal rights, which guarantee their presumption of innocence as well as the exercise of their freedom. But the Act does not permit such freedom to lead to illicit conduct, and allows society to protect itself against such conduct by restricting that freedom, if the need arises.

At this point, any intervention is justified only insofar as the young person has committed an offence. Once a juvenile acknowledges himself guilty of having committed an offence under the Criminal Code and related statutes, and rules and mechanisms of the criminal law can be applied. The Act informs us, however - and this is its third basic theme - that this utilization of the criminal law must be carried out with moderation, in view of the fact that other mechanisms can also fill the special needs of adolescents. In particular, there are the resources that their own community can offer them through its participation in preventive measures or sentencing alternatives, which permit the avoidance of the court process or allow substitution for detention and the institutionalized treatment of young people.

The Act therefore promotes increased community involvement so as to prevent criminal conduct in adolescents and rehabilitate those already so engaged. We must stress that youth justice committees can be created, by means of which an entire range of measures and community activities can be developed to satisfy the special needs of adolescents. Of course, this increased community involvement, the fourth theme of the Act, cannot compromise the necessity of ensuring the protection of society against illicit behaviour, but it permits an approach to creating youth responsibility on terms other than those of punishment:

> The interest of society does not require the jailing of every adolescent in conflict with the law, nor the adopting of restrictive measures against him; indeed such a solution would undoubtedly have negative results. We must on the contrary attempt to rehabilitate and re-educate young offenders within their family and their community; this is the best way of ensuring the effective, long-term protection of society and serving the general public interest. To this end, all concerned, the society, the family, and the adolescent himself, must assume their own responsibility.
>
> (Cliche and Jacques 1984: 33-34) [translation]

Upon reading these authors' report, we may well hope that the enforcement of the Young Offenders Act will be able to adapt itself to the particular needs and circumstances of every community, be it urban, rural or native. Opening it to the social intervention of the community concerned would facilitate certain successes. Being convinced of this, however, does not guarantee the veracity of our affirmation, which must thus remain a matter for investigation.

As to the properly legal aspect of this Act, Carol LaPrairie for one remains perplexed regarding certain mechanisms. In particular, she asks to what extent the right to counsel can be actually satisfied in native communities. She also wonders about the quality of the communication between native juvenile offenders and their attorneys: will the latter be adequately informed as to the social and economic realities of the lives of the young people whose interests they will be charged to defend? Futhermore, she asks, will judges be able to deliver different decisions even if they receive pre-disposition reports that are better researched and better prepared? Will they grant young native offenders assisted by a responsible adult the same confidence as other juveniles? Will native parents themselves be considered as responsible as their Euro-Canadian counterparts? Will the legislation and jurisprudence, in this connection, allow for an interpretation that is alive to cultural realities? Will the fact that many native juveniles do not live with their parents have negative consequences for those appearing before the Youth Court? (LaPrairie 1983: 349). These are so many questions directed toward the issue of how far the legal process properly speaking can be said to respond to the special needs of young native offenders.

A few other questions, simple but nonetheless important, arise for those seeking to eradicate all forms of discrimination of result. To what extent have young natives and their communities been informed of the existence of the Young Offenders Act, its principles, and the mechanisms it can bring into operation? To what extent have they been consulted on this matter? And finally, do they accord it any kind of legitimacy?

Incidentally, with the Youth Protection Act, Quebec put forward in 1979 several of the innovations effected by the Young Offenders Act. Children's rights, minimal intervention, alternative measures to due process of law, community involvement and parental responsiblity are all innovative principles introduced in 1979 by the Quebec Act and reaffirmed in 1984 by the federal Act. Yet the implementation of these principles with respect to native juveniles and their communities still remains a question mark.

When the Department of Justice of the Canadian government assigned us to the mandate to "determine (by means of applied research) to what extent the needs felt by young native offenders (in Quebec) are satisfied by the services offered by para-legal advisers or by other services subsequent to their coming into contact with the criminal justice system", it was certainly referring to this body of questions, to this entire problem area. We shall now look at the approach to which we have given preference in order to suitably carry out the mandate with which we were entrusted.

2. THE APPROACH

As formulated, the mandate given us by the Department of Justice of the Canadian government implies that what is in fact involved is the production of an assessment of the needs of a certain number of young offenders from a limited number of specific communities. The mandate does indeed refer to a particular category of individuals: native juvenile offenders. This population, as pointed out before, faces a problematical situation creating special needs. We may assume the hypothesis that existing resources can answer these special needs, or that such resources could be created. Our mandate would thus consist in verifying, on the one hand, whether this problematical situation gives rise to sufficient difficulties to set off court action, and on the other, whether there exist sufficient resources for this action to successfully attain the objective of the proceedings. The essential goal of our mandate would then be to describe the currently prevailing situation as regards the enforcement of the Young Offenders Act by conducting inquiries among native juveniles who have been in conflict with the law and by striving with them to identify the solutions most likely to ameliorate those aspects of their situation deemed to be unsatisfactory (cf. Gauthier 1984: 148-150 on this subject).

But upon serious consideration, such a mandate proves most difficult to carry out. With the time and budget constraints we had, how could we successfully attain the level of analysis at which we could be assured of obtaining information truly corresponding to the needs "felt" by young native offenders? Within the framework of this mandate, we could not devote more than eight to twelve days, at the very maximum, to each of the communities involved. In so little time it is in fact impossible to create the climate of trust necessary to attain such a research objective.

We have therefore turned to the literature on the subject in order to discover what research projects apparently have had to be carried out as rapidly as possible. In this regard, the comments of LaPrairie et al. have been most enlightening:

> In several areas, services to young Native offenders are already in place, or ready to implement. Some of these programs are at the stage where they can benefit from expansion, or modification of standard models to accommodate regional variations. Such programs no longer need to be "researched".
>
> Without assurance of continued funding for adequate implementation of various service models, all research and planning and support of demonstration projects may well prove futile in meeting the needs of young Native offenders.
>
> ...
>
> Some basic facts regarding young Native offenders are already well documented. We know that they are disproportionately represented at all stages of the criminal justice system; that they are frequently removed from home communities; that they are economically disadvantaged; and face many barriers in dealing with the justice system. Although additional information is always useful, there is at present enough data to justify the need for special programs and services for young Native offenders.
>
> Baseline data is needed, however, to:
> - monitor whether the implementation of the Young Offenders Act improves or aggravates the problems of young Native offenders;
> - assess specific programs;
> - document local and regional variations;
> - establish the needs of specific groups (e.g. females, 17-year-olds, Métis, etc.) within category of "young Native offender".
>
> (LaPrairie et al. 1984: 55-56)

These authors' recommendations thus urge an evaluation of the implementation of the Young Offenders Act and related services, rather than an assessment of the needs "felt" by juvenile offenders. Basically aiming to describe the actual development of a given program and to identify the population it actually serves, such an evaluation requires the participation of the target population. Indeed, as Jean Beaudry states:

> The participation of the target population constitutes a critical measure of the validity of a program. Should an agency note a gap between its target population and its users, it will be in its interest to remedy this situation as quickly as possible. This action may take two forms: a program modification or a new requirement analysis. In the latter case, the previous assessment will be acknowledged as flawed in some way. In the former, the gap will be attributed to deficient implementation of the program.
>
> (Beaudry 1984: 405)[Translation]

In other words, a requirements analysis must always be regarded as essential, at the very conception of any program. As we mentioned above, lack of time made it impossible for us to thoroughly carry out such an assessment. However, we were able to collect comments and evidence from a number of native juveniles and parents, political representatives, and social and legal workers involved in delivering the services that will eventually be modified. In attempting to understand this overall situation, we were then able to establish, thanks to this evidence, the needs of young native offenders as expressed by our informants. And in this sense, what we have done is indeed a program evaluation - i.e., of the implementation of the Young Offenders Act.

Generally, in the social sciences, program evaluation studies partake of an approach known as the hypothetico-deductive, whereby the evaluator formulates hypotheses that he later verifies by using quantitative measures, implementing experimental or quasi-experimental protocols, and employing complex statistical tests. We did not judge this a feasible approach to carry out our mandate - first, because our time and budget constraints as well as the context of the research made the use of experimental research estimates difficult; and second, because since our main concern was the questions that might be raised by native juveniles, their communities, and the workers and professionals involved in the enforcement of the Young Offenders Act, it seemed to us more useful to let them express themselves on the subject as openly as possible. Since the hypothetico-deductive approach does not lend itself well to such an exercise, we therefore gave preference to the holistic-inductive approach.

Developed in the fields of anthropology and sociology and requiring the utilization of qualitative data collection techniques, this approach has as its essential objective "the comprehension of a phenomenon through a more or less exhaustive description" (Beaudry 1984: 396) [translation]. Since assessments of requirements and of the implementation of a law or a program are directed toward understanding a situation as much as possible in its entirety, this approach seemed to us the most useful to carry out the mandate entrusted to us.

3. THE TECHNIQUES

The holistic-inductive approach demands as much strictness of those adopting it as any other approach. Indeed, this approach firmly retains its ties to the scientific project, and in this regard obliges us to indicate each of the operations used to make it effective. For the data collected by means of this approach do no exist in a pure state. They are in fact assembled by the researcher, first in terms of his chosen problem area, and then by means of the collection techniques he has used. We described our chosen problem area earlier; we have also explained why we have adopted the holistic-inductive approach; we shall now see what techniques we have used in this research.

The objective of describing a situation as well as possible necessarily raises the issue of the sampling of the informants. For it is obviously impossible to question all the persons involved, in one way or another, in this situation.

It being our task to evaluate the implementation of the Young Offenders Act and its related services while also attempting, so far as possible, to identify the measurable needs of young native offenders, we have had to select a certain number of individuals likely to enlighten us as to the general situation in this area. As mentioned earlier, young natives, members of their communities, and workers and professionals called on to intervene by virtue of this Act all seemed to us capable of bringing pertinent perspectives to this topic. We therefore first of all distinguished five groups of informants to be questioned: 1) native juveniles; 2) native parents; 3) justice personnel, notably police officers, lawyers, judges, probation officers, and para-legal advisers; 4) social services personnel, notably community workers, social workers, and youth protection directors; 5) political representatives.

Like these groups themselves, the selection of individuals from any given group was made by reasoned choice. In other words, we tried to meet with individuals who were likely to express a pertinent point of view on the needs of young offenders in the context of the implementation of the Young Offenders Act. We thus utilized a nonprobabilistic technique that does not guarantee the representativeness of each of the informants, but does allow us, if the exercise is successful, to describe how a certain number of individuals, members of the groups most affected by this Act, perceive its implementation, its problems and its possibilities. Since we had begun by adopting an approach that favours qualitative methods, this sampling technique remains valid and useful, even if it has obvious limits. It would be extremely difficult to draw up statistical generalizations on the basis of the data we have gathered by using this sampling technique, among others. This technique, however, permits us to discover some base lines, some trends characteristic of the situation as a whole.

Finally, we will note that the same remarks apply to the choices of the communities where we in fact carried out the inquiry. In the next chapter, we will briefly describe the characteristics of each of these. However, the reader must keep our warnings in mind: the situation described for each of these communities cannot be statistically generalized to all native communities. Yet it has the status of evidence, and as such may or may not be authenticated by the principals concerned.

Adoption of the holistic-inductive approach, furthermore, necessitates entering into direct personal contact with the informants selected. In effect, what this method loses in quantitative terms it must presumably gain in other, i.e. qualitative, terms. To achieve this, the researcher must succeed in creating with his informants a climate of trust that will in the end lead to voluntary disclosure of information, and indeed of confidences. The informants are thus called on to play an active role, and it is the researcher's task to facilitate this for them. Therefore preparation for the interview and the relationship established during it demand particular attention on the part of the researcher.

In our effort to obtain data pertinent to the problem area defined earlier, prior to the opening of the inquiry proper we drew up what is generally known as an interview guide. A careful reading of the Review of Consultative Papers on the Impact of the Young Offenders Act on Native Juveniles (LaPrairie et al. 1984) allowed us to familiarize ourselves with the body of questions raised by a good many native associations when the Young Offenders Bill was being studied. We created the guide that we later used during each of our interviews largely on the basis of the recommendations that appear on pages 49 to 52 of the Review. At the outset of each interview, we would indicate to the informant that, in order to help him express himself as freely as possible on the implementation of the Young Offenders Act in native milieus and the special needs of young native offenders, we would pose him a certain number of questions, to which he was free to respond or not. We also informed him of the sources used to draw up our interview guide.

We might now point out that this interview guide possibly exerted some influence upon each informant, especially through the themes toward which it oriented the interview. These themes are those found in the analysis by LaPrairie et al. (1984: 1-2): the lack of information on the Act and on native realities; the difficulties encountered by young offenders when they find themselves involved in one fashion or another with the court process; and finally the existence or nonexistence of special social services for native juveniles in their respective communities.

Three researchers were involved in this collection of data: Serge Bouchard, who conducted interviews in Mingan and Montréal; Jacques Prégent, who conducted interviews in Restigouche and Montréal; and lastly Alain Bissonnette, who carried out interviews in Abitibi, La Mauricie, Kuujjuaq, Québec and Montréal.[1] It is clear that each man's personality and knowledge of the milieu may influence the quality of the interviews achieved. This recourse to several "observers" to a certain extent prevents the biases of a single researcher from modifying the entirety of the data gathered. Let us remember at this point that if qualitative methods have their limits, they also offer valuable advantages. In particular, researchers well acquainted with a milieu are able to obtain pertinent information and evidence.

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1. Although he went to Caughnawaga to meet a Band Council member and two Social Services Centre employees, the competent authorities have not yet manifested their willingness or lack of same to participate in such interviews. Until further notice, therefore, this matter remains in abeyance.

Interest in the qualitative study of social phenomena seems to be on the rise, and we consider ourselves part of this trend. Beyond the technical requirements of this approach, there is the weighty obligation

> to develop a listening ability that becomes ever more "free" of prejudices and personal factors, not bound by pre-existing categories, ready to follow the other onto the paths of his own world of meaning.
>
> (Daunais 1984: 273) [translation]

To ask whether the exercise has been successful is to inquire as to the validity of the method which, starting with a certain problem and using specific techniques, allowed a certain amount of information, of empirical data, to be obtained. We have attempted here to indicate, as honestly as possible, all the operations we carried out in order to gather the empirical data that will form the basis of our description of the situation in the following chapter.

II. PORTRAITS OF THE SITUATION

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1. RESTIGOUCHE

1.1 Descriptive Review

1.1.1 Social Services Personnel

There are social workers in the Gaspé region who are specifically assigned to native communities. Their duties include the administration and application of the Young Offenders Act, the Youth Protection Act and the Adoption Act.

Their chief objectives in terms of the Act concerning us, apart from social and legal intervention, are mainly to assist and to create a sense of responsibility in communities with respect to the phenomenon of delinquency. Naturally, in their various roles, these workers are also obliged to inform young people of their rights under the law when confronted with it, a duty they say the police also carry out when a juvenile is arrested. They nevertheless see two major difficulties. First, the information is only conveyed to the juvenile once the crime has been committed, subsequent to meeting with him, and second, their intervention role causes them to be often associated with the justice system, whence a certain distrust on the part of the adolescents. Under these circumstances, they propose that a para-legal adviser support the young person as he goes through the various procedures, thus facilitating his better integration in the court process. Furthermore, most young people are unfamiliar with the Act, which should therefore be generally publicized on the regional level; this information could be passed on by the para-legal in the native communities. Under the

circumstances, we do not see why the para-legal adviser who now exists for adults could not carry out these functions. However, it would certainly be preferable to have a single para-legal per reserve so as to ensure better possible contact with the communities.

As to judicial process, the view is that the rules prescribed by the law are on the whole respected by the court. Also, as to procedure, the members of the native police and the social workers ensure that persons having to appear before the courts are duly cited. The police or social workers generally see to the transportation of the delinquents and their parents, whence the necessity for available funds in case of exceptional measures. It is to be noted that, according to the social workers, justice administration personnel are conscious of the cultural distinctions between the groups, a recognition that is the product of both their relations with the social workers, some of whom are natives, and their contacts with the community.

As to community involvement, it is felt that the community will be better able to handle the problem of delinquency once the objectives (instilling a sense of parental responsibility toward children and community participation) are attained through the services already available, such as the Day Centre, or soon to be available. There are in fact plans to establish a group home on the Restigouche reserve. If this should come to pass, there would be an end to the expatriation of young people to reception centres far from the reserve, a dislocation which augments rehabilitation and social reintegration problems.

Finally, we should note that, at the time of the interviews, the social workers had only about ten cases outside the reserve, and that none of these cases had been treated in the context of the Young Offenders Act. Furthermore, the social

workers emphasize the significance of out-of-court settlements within the community, except of course in cases of serious recidivism.

The Restigouche Day Centre has been in existence for approximately four years (see Appendix). The purpose of this Centre is to give specific assistance to young people who are maladjusted on the reserve. The Centre naturally has several functions: among other things, it offers support for the young person's school integration and education, for his adjustment to life outside the reserve, and for families. For some years, the Centre has also administered the various sentencing alternatives that juveniles must execute within the community on the recommendations of the court or social workers. Consequently the Centre's educators, like the social workers, have also helped to disseminate, when the opportunity has presented itself, information on the Young Offenders Act to juveniles involved in the justice system. It must be noted, however, that this information has been given only to those young people referred to the Centre. We thus have to realize, as the educators point out, that only one segment of adolescents has been contacted in this way. The conclusions to be drawn from this are similar to the social workers' recommendations, i.e., it would be useful and important for the well-being of other young people to have at their disposal a para-legal adviser who would work in close collaboration with all juveniles. The close collaboration that could exist between this para-legal and the educators at the Centre would also have the benefit of going beyond the simple function of informing young people and doubtless that of providing an effective element of prevention.

With regard to the judicial process, the educators confirm the observations of the social workers. But while the administrators of justice respect the rights of young people, the fact remains that adolescents misperceive and misinterpret the

procedural process and the importance of their rights under the law (right to a lawyer, right to remain silent, etc.). The judges and lawyers formulate recommendations and judgments that reflect the situation of the native culture. However, cross-cultural training should be given to social workers, the police, and psychologists (note in this connection that Restigouche is also confronted with social intervention from New Brunswick).

The milieu's involvement in the issue of delinquency is limited. First of all, in material terms the community has very few recreational or socio-cultural resources to divert young people. We are also told that the community is trying desperately to form permanent parents' committees in the aim of creating new methods of dealing with delinquency, but without success; many interfamily antagonisms within the community make it impossible to obtain good participation. We must also consider the dereliction caused by out-of-court agreements between parents. Indeed, these agreements, which are often of no benefit to the child, ensure that actual intervention is avoided, as well as the assistance that social services could offer. Finally, although this situation will change when a group home is established in the community, judges and social workers avoid reception centre placements as much as possible, since such centres do not meet the needs of native juveniles.

The operation of the Day Centre is assisted by the Les Amets Reception Centre of the Gaspé. The representatives of the reception centre certainly have the sole mandate of ensuring the proper operation of their own project, but, in the interests of the cause, they have taken part in several meetings with the band councils.[1] Regarding young people's information about and

[1] As previously indicated, no delinquent has yet been dealt with under the Young Offenders Act, and the present remarks therefore pertain to the former act.

perception of this law, the band councils mention that they seem to be highly ignorant of it, and worse still, pay scarcely any attention to it, knowing full well that not much can be done to them before their majority. The justice systems generally issue them minor confinement sentences. Community work is often the sole course taken by the court or the social workers, and only cases of serious recidivism are referred to a specialized centre. These representatives are alarmed much more by the fact that the mentality on the reserve is similar, which rightly disturbs the band council and certain parents. Presently it is the social workers, the educator at the Centre and the police who see that information is handed on to young people. In effect, if the para-legal adviser limited himself to simply informing and documenting the community and fostering public awareness, he would only be duplicating the work of these personnel. In the circumstances, the organization of regular information sessions could also prove effective.

These representatives feel that the importance of the Day Centre must be taken into consideration. The Centre is now slowly but surely attracting a non-referred clientele. Young people are getting involved more and more in the Centre, whether for leisure activities or for the advice they can obtain from the educators. Thus, though the process is a slow one, it will hopefully be of benefit to the community. The representatives speculate that once a group home is established under the responsibility of a departmental head, the director general (Young Offenders Act) will delegate his powers to that head, thus giving the community greater control over its young people.

1.1.2 Justice Personnel

The officers of the Quebec Police Force have little contact with the native community, since very few offences are committed outside the reserve. However, despite his limited

experience, the police officer interviewed emphasizes that the family setting constitutes the crucial source of delinquency adding that in his opinion the presence of a para-legal adviser would not get to the root of the problem. On the basis of his experience with the para-legal adviser for adults, he feels that the presence of such a para-legal cannot put an end to the apathy of certain parents towards their children nor the fact that they do not take the declaration of their rights seriously, even if the police respect and enforce those rights. He believes that the contact that the judges and lawyers have with the various social services personnel gives them an understanding of the native culture.

The native Indian police reiterate the fact that if juveniles commit indictable offences (generally, minor infractions), this is frequently caused by a lack of recreational activity and a lack of parent-child communication. The officer states that a lack of information about criminal laws persists in the community, but it must be acknowledged that part of the population is not interested in spreading this information. Indeed, there is very little participation in the meetings held on the enforcement of the various laws on the reserve.

Although the effectiveness of the para-legal adviser cannot be assured, regardless of the type of work he does, this service should be made available for young people, particularly in spring and summer, the other seasons being much less busy. With the help of the social workers, he would then see that there is better dissemination of the laws affecting juveniles. Obviously, contrary to the present situation, the para-legal ought to be a member of the reserve (and not someone from another community) so that his availability and contact with the community are guaranteed. The police officer admits that the Day Centre educator now transmits information, but it is often too

late: the juvenile is already involved in legal action or in voluntary measures. The officer says that the rights of young people are respected by both the native Indian police and the court; the social workers take care of finding counsel for the adolescent. Finally, he is convinced that judges and lawyers should receive an information session on the native culture.

The para-legal adviser (for adults) for the Micmacs comes from Maria, a reserve with much less delinquency, this being probably the result of its demography and also, in the para-legal's opinion, the community's control over its young people. It must be made clear, however, that as in Restigouche, the population as a whole is not very interested in the distribution of legal information, except of course when individuals, juvenile or adult, have to confront the criminal justice system.

He is convinced that a para-legal adviser for adolescents should be appointed, and ideally, that a single para-legal for juveniles and adults should be appointed on each reserve. Finally, he does not see that judges and lawyers need be given special training in view of the contact they have with the natives of the region.

The judge and the Crown attorney think, first of all, that it is much too early to assess whether the needs of juvenile delinquents are being satisfied under the Young Offenders Act. Indeed, at the time of the interviews, no cases had been judged under this Act. Hence the remarks made are the result of situations experienced under the previous act or under statutes applying to adults. First, there is close collaboration between the social workers and those who administer justice. The latter admit that the natives function within the system, but they are not sure that they respect it. In this connection, the judge states that it would be surprising to see a change of attitude

among the natives toward the distribution of information, whether about the Young Offenders Act or any other statute: hence, in his view, the irrelevance of a para-legal adviser for adolescents. He feels that legal intervention bears little fruit since it is very difficult to uproot the young people from a family environment that is often unhealthy. Both the judge and the attorney submit that their contact with the community and the social agency personnel enable them to understand the native population. Finally, contrary to the opinion of the representative of the Crown attorney, the judge acknowledges that a certain positive discrimination operates in favour of the natives, who thus possess a certain advantage in relation to non-natives.

1.2 Analyst's Comments

The Restigouche reserve is located in a semi-urban area. Thus, in contrast to all the other communities visited, it is not isolated. This geographical integration doubtless explains the diversity of the social services that are or will be implemented in this region.

However, apart from a judicial process that, technically, respects the rights of native juvenile delinquents, one must take into account the evidence that the young people's (and adults') perception of and level of information about the law demonstrate an ignorance of both the principles it implements and the procedures it imposes. This no doubt further explains the significance of the parallel action taken by the different social and political interests, that is, attempting above all to instill in parents a sense of responsibility toward their children and the community.[1]

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[1] It must be made clear that if certain subjects, as opposed to others, were not dealt with by certain members of the justice system, this stemmed from a refusal to comment, or indifference to certain questions.

2. MINGAN

2.1 Descriptive Review

The inquiry was conducted in the format of open interviews, seminars in fact, in which different categories of people involved with the justice system took part: the head of social services, the head of education, two ex-police officers, parents and young people. There was about eight hours of discussion, in three different places, and the participants unanimously refused to allow the proceedings to be tape-recorded. Most if not all of them were quite reticent about being clearly identified with the opinions they put forward, for the subject of juvenile offenders and the law is an extremely delicate one here, touching a basic reality in the village. However, absolute trust was the keynote of the conversations, since the interviewer was well known to the participants. The problem of confidentiality was raised repeatedly, and this part of the report will make no mention of specific names.

2.1.1 Juveniles

Young people were present at the discussions but they expressed nothing noteworthy, either holding everything up to mockery or maintaining a most peculiar silence. Like the groups that follow, they have absolutely no knowledge of the Young Offenders Act. Apparently awareness of the Act is limited to what can be seen in a television advertisement, and yet ... (here, an interesting if somewhat digressive note: many families in the village no longer watch conventional television and almost exclusively use VCRs to see films). Thus young people are not informed about the Act, but it is also important to point out that in general they do not come in contact with the law. At the time of the inquiry, not a single young person was involved in the legal process. This is not because the juveniles in this

area are angels. On the contrary, very many young people more or less regularly commit acts that should normally bring them before the law. The most frequent cases involve vandalism, theft, violence among themselves or against the elderly, and the consumption of alcohol or drugs. The problem is that they do not suffer the legal consequences of their acts because the families and by extension the entire community protect them from all external intervention. This "covering" of juveniles presupposes a quite peculiar form of social control; to grasp its broad outline we must turn to the families, that is, the parents.

2.1.2 Parents

In Mingan, as apparently in the three other Montagnais villages on the Lower North Shore, there is no interest at all in legal matters. Together with the problem of lack of information, there is that of the desire to remain uninformed. Training and information on legal issues are totally wanting in the region. There is a lack of human resources. There are many social workers and even a native resource person working at the regional level, but they are totally overwhelmed with work and their activities are centred in the area between Betsiamites and Sept-Iles, where there is so much to do. For example, the parents do not know the para-legal adviser in charge and some even doubt that the village has one. We might add that the parents have much to occupy them because there are a great many children in the village, as in all recently settled (1960) native communities. Today's young people were born on the reserve, in contrast to the previous generation. The so-called traditional life in the forest is an abstraction for them. They certainly obey the law, but that law is the law of the "milieu of the reserve". It is this milieu and this law that must be known. According to the parents, this subculture of the reserve is summed up in the role played by the family.

Under the present cultural system, the community succeeds in controlling its members socially through the power of the families. The village is divided into a determined number of family groups that are almost invisible to the hurried observer. These clans, in the broad sense of the term, engage among themselves in a war of influence and prestige which itself derives from the presettlement era. Village life revolves around these domestic political struggles; the family groups control the Band Council, the various services, the police, and of course the young people. The traditional attitude toward children remains very much alive: let the child do what he wants, as long as he is no trouble to anyone other than himself or those who are willing to endure him. For the rest, let come what may. This has many consequences. If the juvenile is a heavy drinker, that is his problem; he is not accounted guilty for it. Pressure may be exerted (especially by denying him money), comments may be made, but he will be let alone. The juvenile is thus drawn into a small protected society in which pleasure and prestige pass through many classic behaviour patterns: sex, alcohol, drugs, violence. Thus this underground world of young people is created on the reserve, one in which the integration is strong, and the structure as well, even if it is a structure of delinquency when defined in general terms. We must then emphasize and remember that this delinquency is based on a positive process of cultural integration in that it secures the young people pleasure, an identity, prestige, and meaning. We also note that for some years now, active participation in the delinquency network has been beginning at an age that is tending to drop ever lower. More girls are taking part. In this system, the juvenile can do practically anything and get out of it, because the families will settle the problem between themselves and no complaint will be lodged. The parents are nonetheless asking themselves about the future. Juveniles are doubly confined on the reserve because such a system is only workable within the boundaries of the village. Hence the geographic immobility of young people.

On the whole, those participating in the discussions felt that the situation would shortly change. The community will not be able to successfully control its young people indefinitely. Sooner or later some of them will begin coming before the courts. Information sessions would therefore be required, as of now. But even here, the parents would insist on keeping children in their own milieu. They speak of community work in the village and even stricter penalties such as exclusion or prolonged stays in the forest under the charge of supervisors. These stays would allow none of the benefits connected with life in the woods, but would include elements of training. The people are agreed on these types of ideas and many other of the same sort, but everything must be based on community treatment of problem cases.

2.1.3 Justice Personnel

We will only speak of police officers here. Policemen are in a very difficult position. If they do not conform to the law of the subcultural milieu, they will not last long at their posts. And in this regard the turnover of personnel in the village is a good measure of the system's effectiveness. Any police officer wanting to do his job by enforcing general standards that are external to the families' wishes has had to tender his resignation. There is even a famous local case in which a policeman had himself fired upon for wanting to do his duty a little too much by the book. These police officers are products of the milieu, and they undergo intense pressure from it. If they hope for anything, it would certainly be better regulations within the village; it is this problem we must now address.

2.1.4 Political representatives

The Band Council's position is no better. Moreover its composition reflects the state of the family groups' internal struggles. In a sense, its hands are tied on several issues relating to the village's community life. For example, there is no prescribed age in the community for consumption of alcohol because the families have decided that this should be so. Neither is there any curfew for small children. It would be easy to vote in regulations restricting the freedom of children, but politics is not practised there as it would be elsewhere. In a way, it is more democratic, and if there is little control over juveniles in Mingan and they receive little punishment under whatever system there may be, it is because the community does not wish to exert direct control over individuals and does not believe in the virtues of a penal system.

2.2 Analyst's Comments

The community of Mingan (± 280 inhabitants) exemplifies the case of small native communities in the subarctic evolving in relative geographic isolation but accentuating this through a significant collective withdrawal upon themselves. Despite the existence of Highway 138, which joins the village to the city of Sept-Iles (150 km), for the moment it does not appear that the young people are taking up an intense geographic mobility.

The mother tongue of the young is Montagnais, and this remains the language of common usage. All young people speak French as a second language. With regard to education, the majority leave school at the senior high level. Furthermore, the community has opted for the repatriation of both levels of high school within the reserve, so as to avoid having their teenage children attend outside schools, especially in larger centres. It is noteworthy that the elementary course has to be given in a

small neighbouring village, in the white school, because of lack of space. There is less fear over letting primary level youngsters leave the reserve than those at the secondary level.

From the informants' point of view, legal services in general are nonexistent. They do not know the name of the para-legal adviser, and recourse to lawyers or any agent whatsoever of the justice system is to all practical purposes nil.

There is a strong collective will to keep everything within the confines of the community. If the people recognize a need for information on the Young Offenders Act, they do not seem to feel any urgency about it. It might even be possible that the families in particular will refuse to attend such education or information sessions, especially if they are too formal or too quickly done.

In reality, it is the implicit "law of the community", as defined by the families, that regulates daily life in the village, and it is these forces that govern young native offenders, and not an external system.

In a way, no community-based native institution (Band Council, Education, Police) entirely escapes this dynamic. In short, there is here a substantial rift between two worlds: that of the Indian village, and that of the external world with its justice system as conceived by society at large, which has but little hold on the former.

3. The MONTRÉAL Region

An important caution must precede our descriptive review of the various persons associated with the justice system whom we met in Montréal. We must firstly make clear that very little information is available about native juvenile offenders in Montréal. Indeed, the police, legal and social (CSS) services have no statistics on the situation of juvenile delinqents in the metropolitan area. Furthermore, observers generally share the conviction that the situation of native juvenile delinquents is no more alarming than that of the non-native population of Montréal (there is in fact very little contact between young natives and court processes).

These situations having been considered, we must lastly mention, keeping in mind the various difficulties entailed by this method, that the 1981 census conducted by Statistics Canada[1] estimates the native population residing in Montréal at 3,575, with a total of 5,985 persons on the island of Montréal. (This includes status and non-status Indians, Métis and Inuit.) According to the CSSMM,[2] approximately 5,000 to 7,000 transients of native Indian origin pass through Montréal every year.

3.1 Descriptive Review

3.1.1 Justice Personnel

All the police officers interviewed, attached to various areas of the city, agree that delinquency is largely nonexistent among young natives. Though statistics are lacking,

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[1] Statistics Canada, 1981 Census, unpublished statistics. (See Appendix)

[2] POILANE, Josette and Waheed MALIK, "Les autochtones" [The natives], internal document prepared for the CSSMM [Centre des services sociaux de Montréal métropolitain] (Migrant-Immigrant Service), manuscript, 65 p.

since the Young Offenders Act came into effect there have been no native juveniles taken into custody in any of the districts (although the same cannot be said of adults). But there is one exception: the southwest portion of the island of Montréal, i.e. Ville LaSalle. The natives of Caughnawaga have easy access to LaSalle. It is estimated that approximately ten juveniles were arrested during summer '84, although very few of these cases came before the courts, since the reserve's social services took the young people in hand. The police consider that the situation gives very little cause for alarm.

The Crown attorneys emphasize that very few young native offenders come before the Youth Court (about fifteen cases have been counted in the judicial districts of Longueuil and Montréal since the new law came into force). The juveniles are always represented by counsel, and parental participation is similar to non-natives, i.e. a 50 percent attendance rate. The recommendations of social workers are very rarely contested, and about 50 percent of the cases feature sentencing alternatives, while avoiding the imposition of fines. One attorney suggests that social workers and certain of those who administer justice receive training in native culture, so that they can better assess and understand the problems of natives. Although some juveniles, both natives and non-natives, renounce their rights when arrested, the prosecutors state that the Crown must prove that the individual has understood the statement of his rights, thus avoiding an unjust conviction. The creation of a group home is kindling controversy (some being in favour of integration, others in favour of separation of cultures), but ideally, a placement service should be set up at least for the youth of Caughnawaga. Finally, the prosecutors are opposed to the establishment of justice committees for the native communities, fearing a return of the power that the social services had under the former law (Juvenile Deliquents Act).

The regional para-legal adviser deals very largely with adult offenders. However, on four occasions she has served as an information resource for juveniles under arrest. Her role was confined to explaining to them their rights, and she also saw to finding them a lawyer. She subsequently acted as liaison between the lawyers and the juveniles. She regards this adviser-juvenile contact as very useful, in that it reassures the young person as to the many precedures and makes him more aware of the implications of his actions.

3.1.2 Social Services Personnel

In general, as we stated at the opening of this study, the various services that come in contact with natives are not very familiar with the situation of young native offenders. First of all, this is partly the result of the difficulty of identifying who is a native, and also of the fact that natives are often not anxious to identify themselves as such within the community. Only the CSSMM, upon publishing an internal document,[3] has noted the importance of making better use of their various services for natives, without, however, dealing with the situation of young offenders.

3.2 Analyst's Comments

Though the various agents of the justice system see the situation as hardly alarming, there is reason to be perplexed. Since the exact number of natives in Montréal is not known, we must ask ourselves whether the involvement of young natives in delinquency is in fact so limited. Furthermore, it would be important to know the involvement of the youth of Caughnawaga in the court process in order to better identify that of the native youth of the city of Montréal (these figures have once again proved impossible to determine).

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[3] Op.cit.

4. La MAURICIE

4.1 Descriptive Review

4.1.1 Juveniles

We met two young Attikameks aged about 15, residing in La Tuque and originally from Obedjiwan. We were accompanied by a community worker. They talked very little. One of them had already been in conflict with the law. He said there was very little communication between himself and his lawyer. However he seemed more satisfied with the services provided him by the social workers employed by Atikamek Sipi. While saying very little, they did not evidence any specific dissatisfaction with the court process or the social, cultural and economic resources that were or were not at their disposal.

4.1.2. Parents

With the exception of parents employed as justice personnel, social services personnel or political representatives, we met with no other native parent whose evidence could be summarized here.

4.1.3 Justice Personnel

In Obedjiwan we met with five native Indian police officers, as well as their squad leader.

In their opinion, 40 to 50 percent of the population are aware of the existence of the Young Offenders Act. However, they believe that the majority of young Attikameks do not comprehend the court process. They feel that the para-legal adviser can enlighten them on this subject. They would like to see better information made accessible to the general population,

whether on-the-spot through the community worker employed by Atikamek Sipi, or in the schools via teachers. In their opinion, the agents of the justice system are becoming ever more knowledgeable about native realities.

They consider a single group of juveniles in Obedjiwan to be chiefly responsible for the commission of offences along the lines of break and enter, vandalism, and theft. These juveniles do not attend school and do not live with their parents. When they appear before the court, their parents are not present. The police officers' initial reaction is that they are at a loss as to how the situation of these young people could be improved. However, they would like to see the Circuit Court visit Obedjiwan more frequently; in their opinion, the youth would then be more respectful of the law. They would agree to having a native justice of the peace appointed, who could judge the juveniles. They would like the representative of the Director of Youth Protection [DYP] to come more often to meet with and give assistance to young people. In their opinion, it would be preferable to have Atikamek Sipi named DYP, because then young people could express themselves in their own language when they met the DYP. They would not agree to the creation of a justice committee composed of Attikameks with a mandate to pass sentence on young offenders.

We also met with three lawyers; one practises in La Tuque and one in Joliette as representative of the Attorney General. They all concur in the view that the Attikamek populations, the youth included, are not familiar with the Young Offenders Act. They are puzzled as to how to better inform them on this matter. They feel, however, that the main task is to facilitate contact between these populations and the agents of the justice system so that the latter are not considered as total strangers but rather as an available resource. Education

sessions could also better inform justice personnel on native Indian realities, but since the natives are in limited contact with them, how many lawyers will feel concerned?

In their opinion, the para-legal adviser for natives has a large role to play. It is he who encourages communication between the juvenile who has to appear in court and his lawyer. In La Tuque, even though it is not part of his mandate, the para-legal works with young offenders. It is he who helps the young person understand all the implications of his situation. Without him, it appears certain that Attikamek juveniles would have little idea of what is happening to them: the lawyers feel that in general, like their parents, they neither know nor understand the justice system. This being said, the fact remains that once they are involved in it, all young Attikameks can get fairly quick access to a lawyer's services thanks to the powers of attorney granted for them by the Legal Aid. The court presently sits at either La Tuque or Joliette. The lawyers met consider that this situation creates no ill consequences for the natives. In their opinion, the parents of juveniles attend court proceedings and follow the deliberations.

On the question of whether the natives themselves could take part in the administration of justice through the possible creation of justice committees, only one of the lawyers is open to the possibility. He sees it as a means of creating a sense of responsibility in youth toward their own community, their laws, and their ways and customs, whereas now the Criminal Code and other statutes seem to have scarcely any significance for them. The others feel that the law should be the same for all, and consequently prefer to ensure that young Attikameks better understand the current administration of justice and that the exercise of their rights in that context is guaranteed.

In view of the general ignorance of the Young Offenders Act, the para-legal adviser we met in La Tuque would like to see a better dissemination of information in Attikamek on the reserves and in the schools attended by a good many young Attikameks, notably in La Tuque, Roberval, Shawinigan and Joliette. He would also like to see justice personnel better informed on native Indian realities.

Although he is aware that his mandate permits him to work only with adults who have problems relating to the criminal justice system, this para-legal adviser still lends his services to young offenders. He explains that he cannot very well refuse this assistance to the juveniles who come to ask him to take action. However, he would like to receive better training in this regard and to be assured that he may indeed act as he already does. He declares himself opposed to the possible creation of justice committees in native communities, because in his opinion these committees would not really be respected. According to him, even the Circuit Court does not enjoy the same respect as the regular court sitting in La Tuque, Roberval or Joliette. He feels that it is better that the natives have some fear of the court if there is a desire to see fewer offences committed.

This being said, he favours sentencing alternatives, community work, etc., instead of imprisonment for young offenders. That better post-infraction services may be offered to these young people, he sees a need for better co-ordination among all personnel involved in the justice system.

4.1.4 Social Services Personnel

Community workers, social workers, and the director of Attikamek social services were questioned in Obedjiwan, La Tuque and Joliette. Social workers employed by the Quebec network of social services centres were also questioned in La Tuque and Joliette. Lastly, we also met with the Director of Youth Protection for the administrative region of Central Quebec. We will now report on the clear points of agreement to be found in their comments.

They agree that the Young Offenders Act is practically unknown to Attikamek juveniles. They would have information on this subject circulated in Attikamek within the communities via community radio as well as through the schools attended by young Attikameks. The Atikamek Sipi agency, which is partially responsible for the dispensing of social services, should see that this information is disseminated by involving its community workers as well as the para-legal adviser for natives. They emphasize, however, that the Quebec information mission of the Young Offenders Act has a responsibility in this regard which it should act upon, even if it simply entails collaborating in the work done by Atikamek Sipi. They agree that the social services personnel require no education in native Indian realities, since if Attikameks are not yet the majority of their number, they will soon become so. They feel that letting the natives themselves take charge of their services is preferable to any effort at education. In their opinion, even information sessions for justice personnel would not have any greater effect than concrete communication with the Attikamek social services workers. The accent is thus placed upon involving the principals concerned at all levels. This, they believe, would seem the best strategy.

The social services personnel unanimously confirm that Attikamek juveniles do not understand the justice system, that most often they fear it, and that they do not think about having recourse to lawyers. Hence the former's desire to see a para-legal adviser present for the young offender at all stages of the legal process. The para-legal can give the young person information and even teach him how to behave in court. His presence is the more essential in that it promotes communication between the juvenile and his lawyer and in that, unlike the social worker, the para-legal adviser cannot be suspected of acting as a kind of judge, i.e., not impartially, in regard to the juvenile.

It is pointed out, however, that in most cases of offences committed within the community, everything is settled on the spot, without involving the law as such. This para-legal adviser would thus have to intervene primarily when an infraction is committed outside the Attikamek communities. Once the process is underway, it is apparently easy to obtain the services of a lawyer through Legal Aid.

In certain cases, emphasis is laid on the overly great distance between the place where the court is sitting and the location where the parents live. It would be desirable, for example, for a juvenile who has committed an offence in Roberval to be able to be tried in his own community in Obedjiwan. Apparently the problem does not apply to Joliette, since transportation for the principal parties concerned is supplied between this town and Manouane. All the social services personnel state that the time allowed for notifying parents is too short: they would like to ensure that the parents are informed before the juvenile is ordered to appear in court. Despite these travel difficulties, there is hesitation to entrust the administration of juvenile justice to local committees. There is no consensus on this issue. Some find the idea

interesting because it involves the community assuming responsibility for justice, but others ask how, in practice, fair and equal treatment could be guaranteed for all. Finally, all say that at present it is impossible to evaluate the enforcement of the Young Offenders Act because it has been in effect for too short a time and very few cases have been tried under it: less than ten, it seems, for the Attikameks as a whole.

All social services personnel favour community involvement in matters pertaining to young people. Despite certain travel difficulties caused by a climate of political negotiation, it now seems established that the Attikamek community workers are acting alone in the field, and thereby ensuring the implementation of all the social measures permitted by the law. The delegate of the provincial director - in Quebec, it is the Director of Youth Protection (DYP) who acts as provincial director - is an employee of the Quebec network of social services and is responsible for decisions made concerning Attikamek juveniles, but it is the community workers employed by Atikamek Sipi who meet with the juveniles, and discuss and analyze the situation with them, their parents and the community agencies; it is also these workers who define the type of sentencing alternative possible and supervise it. In other words, at the present time and on a provisional basis while awaiting the satisfaction of the Attikameks' claims for complete responsibility for social services, a compromise appears to have been accepted by both parties: the representative of the DYP recognizes and facilitates the community's capacity to take charge of its young people within the social dimension applicable to the Young Offenders Act, while at the same time fully assuming the responsibilities conferred upon him by that Act - responsibilities with which the Atikamek Sipi agency would like to see itself invested. According to the director himself, it would be impossible to do otherwise, on the one hand because it is not his business to change the laws and he must therefore

assume the responsibilities with which he has been entrusted, and on the other because without the field work of the Attikamek community workers , it would be impossible to serve the youth and the community at all.

Hence the entire social intervention aspect of the Young Offenders Act has in practice become the province of Atikamek Sipi, an agency representing the three Attikamek communities. The social services personnel employed by this agency all agree that the agency should be named "Provincial Director" within the framework of this Act so as to eliminate the useless middleman whom they now see as being the delegate of the DYP. In their opinion, the agency is in the best position to assume the DYP's responsibilities since it is controlled by the Attikameks and well known to them. Even if they are not satisfied with the current situation, these workers already have some objectives in mind with regard to Attikamek juveniles.

They would like to be able to educate the foster families in which young people live during the school year, so that they do not serve them simply as hotels but as sources of wise guidance. They would also like to better ensure contact between these young people and their milieu during the school year, for example, by a school visit from the Band Council, so that the youth may be told what their community expects of them. In this connection, they deem it indispensable to emphasize the parents' role with respect to their children, even when the latter leave the community to study. Concurrently, they would soon like to set up youth centres in the communities so that young people have a place of their own in which to gather. They consider it important as well to collaborate with those in charge of the "Caribou Project" whose mandate it is to prevent alcohol and drug abuse. When a juvenile commits an infraction, they look to make arrangements within the community: in particular, they are thinking of creating a committee to oversee the execution of

alternative measures; but when this proves impossible, they deplore the lack of institutional resources adapted to natives. They assert that the present reception centres serving the entirety of young offenders in Quebec do not satisfy the special needs of Attikamek juveniles, and that social reintegration has subsequently been difficult for those who have frequented or stayed in these centres. They further point out that the therapies used in such centres often appeal to aptitudes that native juveniles have not developed, for example, verbal expression. Faced with this penury of institutional resources for young native offenders, they are at a loss as to how to proceed.

4.1.5 A Political Representative

We met with the chief of the Obedjiwan Band Council. He says that the Act is known very little, and would like to see more information given about it. He feels that those who should be responsible for this are Atikamek Sipi, the Central Quebec Social Services Centre and the native Indian police. He also wishes that the agents of the justice system were more knowledgeable of native realities.

In his opinion, the youth and their parents do not understand the judicial process, primarily because of the cultural difference. He deplores the fact that the Circuit Court does not visit Obedjiwan frequently enough. He would like the role of para-legal advisers to be better known and wishes that they would intervene for young people more particularly. He would also like to see a committee of native representatives allowed to assist the Youth Court judge in his work.

He favours community involvement with young offenders. He prefers alternative measures or community sentences to the detention of juveniles. In his opinion, since the Attikameks took

charge of social services fewer young people have left their community, and it is better this way. He would like to see Atikamek Sipi named DYP in order to improve communication between youth and the DYP.

4.2 Analyst's Comments

It appears that at the present time the Attikamek communities are suitably provided with social services by the workers born in the milieu, by an agency representing them which is already in charge of dispensing part of these services, and finally by the delegates of the Director of Youth Protection who are promoting these communities' involvement and autonomy. Thus the social dimension of the Young Offenders Act is largely covered by the Attikameks themselves. It is consequently their responsibility to utilize all the resources that exist within the communities themselves, or if they do not exist, to see that they eventually do. Various specific steps have already been taken in this direction by the Atikamek Sipi agency. It remains to be seen whether they will be able to procure the funds necessary to carry out their projects.

Since there are very few young offenders cases that come before the courts, it does not appear, for the moment at least, that court appearance of these juveniles presents any problem. If it is true, however, that they have little communication with their lawyers and have a poor understanding of the procedures, process and implications of their committal for trial, it seems that the services of the para-legal advisers are already providing a substantial solution to these difficulties, even if such action is not within their province. There are no doubt grounds for widening their mandate so as to recognize in

administrative terms what they are now doing in practice. In short, the informants we met with do not seem to be basically contesting either the spirit of the law or its current administration.

Institutional resources appear rather to constitute the most significant problems. Indeed, once a young Attikamek has need of specialized social rehabilitation resources that his community cannot provide, he is forced to stay in reception centres that offer scarcely any services adapted to his own particular reality. Herein lies a serious gap, one which none of our informants knows how to remedy.

5. ABITIBI-TÉMISCAMINGUE

5.1 Descriptive Review

5.1.1 Juveniles

We met with about 20 young Algonquins aged between 12 and 17 in the premises of the Lac Simon Band Council. We were accompanied by a community organizer who meets with them weekly to discuss themes and subjects agreed upon in advance. The atmosphere was naturally a jovial one. They all identified themselves, and the discussion then began. Except for two of their number who had been in conflict with the law, they know practically nothing of the justice system. They would like to receive information on the Young Offenders Act, to meet with lawyers and to become more familiar with the L'Étape rehabilitation centre in Val d'Or. The two juveniles who had been involved with the justice system said they were satisfied with the services they received.

5.1.2 Parents

We were able to meet with a few parents who are employed in Val d'Or or who were passing through. We also met the principal of the Lac Simon school. Their remarks are very similar; a summary of them now follows.

All affirm that the Young Offenders Act is practically unknown to young Algonquins, and still less to their parents. In their opinion, only those personnel who are liable to intervene by virtue of this Act are sufficiently knowledgeable about it. They would like to see information sessions, courses and talks organized on this subject by the community workers, the para-legal adviser and the schools. They feel furthermore that

the justice personnel are not well enough acquainted with the Algonquin mentality. They would like to see social evenings arranged so that members of both cultures can meet and learn to better understand each other. Perhaps it would then be easier for judges and counsel to help young Algonquins when they have to meet them.

Their perception is that juveniles who have to appear before the courts are completely lost, do not know what is going to happen to them, and are very timid. They see interpretation problems, with respect not only to language but also to concepts. They would prefer to have young people tried within their own community, for then, on the one hand, more people would attend the court proceedings, and on the other, the agents of the justice system would better understand the milieu. When asked about the possibility of creating justice committees within the Algonquin communities, they remain hesitant: from one point of view, this would encourage community involvement and would make the youth more accountable to their milieu, but from another they say they fear the interpersonal and interfamily conflicts that such a committee might provoke.

In their opinion, the most important consideration remains to assist young people not only by better informing them about the laws but, above all, by allowing them to develop within their respective families and their community. They are all worried about the difficulties that a good many parents have in meeting and communicating with their children. Physical absence is caused by the departure of the children from the community to study on the outside or by the departure of one or both of the parents to work on the outside or to go hunting and trapping. The causes of the dialogue difficulties seem more complex: is this a matter of culture, language, generation-gap conflicts? Or are parents lacking a sense of responsibility toward their

children? The parents say that it is always very difficult for them to admit that their own children have committed serious offences and that some reaction is necessary. For them, all these subjects give reason to worry. They feel that action is needed: inform the people, discuss matters with them so that the Algonquins can take themselves in hand and become self-sufficient. They also state that it is necessary to organize leisure activities for youth, create places where they can meet and communicate, and inform them as well as possible about all that can happen to them, in terms of both health and the law, if they consume drugs, alcohol or any other toxic substance (gasoline, glue, etc.).

They are therefore in favour of prevention as much as of information. Though they would like to see more, they are nonetheless satisfied with the services that the community workers offer young offenders. Two of the parents have in fact noticed improvements in the behaviour of their own children after the two had met with a delegate of the Director of Youth Protection (DYP). Hence their verdict that the Young Offenders Act is worthwhile and should be better known.

5.1.3 Justice Personnel

In Lac Simon we met with a native Indian police officer. Montagnais by origin, he has worked as a native Indian police officer on five Montagnais reserves: Sept Iles, Natashquan, La Romaine, Schefferville and Bersimis. A new arrival in Lac Simon, he regards the problems there as little different from those he has encountered on the other reserves.

In his opinion, neither young people nor their parents understand the Young Offenders Act any more than the Youth Protection Act or the justice system as a whole. He feels that people need to be thoroughly informed on all these subjects. Community workers and police officers should collaborate in organizing information sessions offered by the schools on a continual, progressive basis throughout the school year. He considers this the only way to proceed; otherwise, everything will be very quickly forgotten.

Once he is before the court, because he is ignorant of the justice system, the juvenile closes up, does not feel that anyone wants to help him, and mocks the entire affair. According to this policeman, for the juvenile the judges and lawyers are strangers, non-Indians, people who live in offices and know nothing about his life. He believes it is necessary to ensure that a para-legal adviser follow the juvenile offender from beginning to end of the trial proceedings, talk with him, accompany him, explain to him the objectives of the Young Offenders Act, and above all not be sitting down in his office but actively approaching the juvenile and helping him find all the resource persons he might need. The officer would agree to the creation of a justice committee in Lac Simon if its jurisdiction were limited to minor offences.

He also considers that there is much to do in the way of prevention by organizing leisure activities for youth. He points out that in Lac Simon children 8-9 years old, having nothing to do, engage in vandalism and sniff glue. This situation worries him. He mentions that when he arrived there seemed to have been no follow-up on several files. Were these cases settled within the community or were they simply neglected? There has been no answer to this question.

In Val d'Or, Amos and Rouyn, we met with most of the lawyers and judges now involved in the work of the provincial Circuit Court and the Youth Court of the District of Abitibi. All the Cree and Inuit villages along James Bay, Hudson Bay, Hudson Strait and Ungava Bay are subject to their respective jurisdiction. If the exercise of their functions also brings them into contact with Algonquins who must stand trial, it is not within the context of the Circuit Court. The Algonquin communities do not in fact benefit from this service, and in any case several of them are situated very close to this judicial district's regular courthouses. This situation results in less familiarity on the part of these judges and lawyers with the Algonquin communities. In the interviews they refer most often to the Cree and the Inuit, and admit that they know the Algonquin less well. They seem inclined to believe that the social control within Algonquin communities is such that far fewer of their members enter into conflict with the law. Having made this observation, we will now attempt to summarize their comments on the implementation of the Young Offenders Act in these native communities as a whole.

They all agree that this Act is not really known to the youth or the parents in these communities, even though courses have been given to the school principals, most of the community workers, and the social workers employed there. If, for the great majority of these personnel, it is essential that maximum information be supplied on the Young Offenders Act as well as on the Youth Protection Act, how to do so remains to be determined. Should not the school principals, community workers, social workers and even police officers be resource persons in this matter? Some think so, and feel that their continued presence in the milieu is a token of success. But is this sufficient, and above all, to what extent can they provide information that is detailed and accurate? Given this question, the necessity of

providing information that is correct seems to be an essential criterion for these jurists. Some propose that a task force be created, composed of competent people who are known in the milieu, to ensure a follow-up to the information sessions offered to the entire population. Others prefer to train one individual from the milieu and have him personnally ensure that this information is circulated among his peers. They are thinking here of para-legal advisers, who would have the advantage of not acting as biased parties in regard to young people, whereas police officers, community workers and social workers may become biased parties from the moment they make decisions affecting a juvenile who has committed or is suspected of having committed an offence.

It must however be mentioned that, for some of these personnel, providing more information is not of such great importance. They regard the Young Offenders Act either as a simple code of procedure or as one among a number of elements promoting the cultural assimilation of the natives, and feel that giving detailed information to the population would add nothing to their present knowledge of what is and is not permitted. For them, as also for those who favour greater dissemination of information on the Act, the primary objective is to create a sense of responsibility among the members of these communities with respect to crime in general and the problems it creates.

For the moment, the laws do not allow the natives themselves to administer justice that is true to their own social and cultural realities. The judges and lawyers of the Circuit Court are very conscious of the incongruity between these realities and the justice system they must serve and enforce. Through the information sessions they have attended on native Indian realities, their encounters during their stays in these communities, and the experience they have accumulated over the

years, they strive to comprehend these realities as fully as possible, though they are perfectly aware that they will never attain a knowledge as sure as a native's. Hence their desire to see natives becoming para-legal advisers, probation officers, clerks, lawyers and judges, and their great appreciation of the work now done by certain native community workers. By virtue of the Young Offenders Act, as has been the case for some years now, in Quebec at least, with the Youth Protection Act, a measure of diversion is possible. Since it is mainly the community workers, as delegates of the Director of Youth Protection, who are responsible for this aspect of the law, judges and lawyers feel that it is thus possible, at this level at least, to fully respect the particularities of the milieu and to make use of its own resources. They further believe that the pre-disposition reports that they request these workers to draft prove absolutely essential. These reports allow them to better understand the young person's needs, and thus help the court to decide on the most appropriate remedy for the circumstances.

However, when we leave the area of the social intervention permitted under the Act, it is the clear impression of judges and lawyers that the youth and even the parents scarcely grasp the court process in which they find themselves involved. The procedures remain quite foreign to them. They may even not know for whom an attorney is acting. Some justice personnel even wonder to what extent the young native offender is actually aware that the duty counsel representing him is indeed his defender. Are all these personnel not strangers for him, transient tourists in which he has great difficulty placing his trust? Language is also a key obstacle to adequate comprehension of the legal process. All interviewees emphasize the serious problems experienced with interpreters. First, it is always difficult to find interpreters who will perform their task to the very end of their mandate; and second, the task itself is a

highly demanding one for it requires translation into a technical language and a mode of thought that are unfamiliar to most natives, including very often the interpreter. While the defence counsel is always available to meet his young clients as soon as the plane lands in the village, he must then surmount the above problems of trust and of translation of language and mode of thought. This consequently proves a hazardous exercise for all agents of the justice system. Though they all regard the contribution of para-legal advisers for adults as indispensable, and would like to see this extended to juvenile offenders, they feel that it will always be difficult for them to dispense justice in this way to populations that are so remote. The travelling time is considerable, and the court's presence in the community rather brief despite everything. They are also all in favour of the creation of justice committees within these communities. Incidentally, most of them have collaborated in drafting a project for this purpose. A pilot project was to get underway in Povungnituk as of September 1985. The justice committee would not greatly modify the current process with respect to young offenders, but it would oblige the present Provincial Director, or, as he is known in Quebec, the Director of Youth Protection, to award his current jurisdiction to this committee, of which he would yet be a member. By involving more community members at this stage of intervention with the young offender, they hope to make better known the opportunities offered by the Young Offenders Act and to further encourage the youth's responsibility toward his community, as well as that of the community toward its young people. They further hope that the Youth Court as such will thus no longer be used as a replacement for a social control whose exercise, in their opinion, must be the priority of the natives themselves.

They feel that such social control should be preceded by adequate prevention of abuses related to the consumption of alcohol, drugs or other toxic substances. They regard these

factors as among the most determinant causes of crime in these communities, and estimate that a total stoppage of alcohol consumption in these communities would reduce the number of cases brought before the court by about 80 percent, whether adult or juvenile offenders be involved. Failing such prevention, they would at least like to see a good co-ordination of leisure activities, run by competent community organizers, to help these young people develop in a more favourable climate. The judges and lawyers also emphasize the flagrant lack of specialized institutional resources for native juveniles already significantly engaged in criminal activity or for those requiring protection. For a year now, the L'Étape rehabilitation centre in Val d'Or has been the only establishment designated eligible to admit juveniles placed "under custody" for the entire judicial district of Abitibi-Témiscamingue. Thus native juveniles can no longer be placed, as they were formerly, in centres in Ontario or Saskatchewan which have apparently been adequately meeting their special needs for some years now - where, for example, they are in a milieu where a few organizers and several other young people are natives, and where they can take part in traditional activities: hunting, fishing and trapping. In L'Étape, a special wing has been set up to meet these particular needs. It remains to be seen whether the services it offers will yield a satisfactory success rate. Be that as it may, some feel that L'Étape, for lack of space and lack of means, will not be able to satisfy all native juveniles requiring rehabilitation and protection. This situation worries them.

5.1.4 Social Services Personnel

In Val d'Or we met with all the community workers and social workers employed in the "Native Indian Services" section of the regional Social Services Centre. This administrative region must not be confused with the judicial district of Abitibi-Témiscamingue. These "native Indian services" in fact

apply only to the Algonquin communities, i.e. Kipawa, Notre-Dame-du-Nord, Winneway, Pikogan, Lac Simon and Grand-Lac-Victoria. These community workers act as delegates of the Director of Youth Protection in these communities. The interview was conducted with all the members of this team and with their director.

They feel that the Young Offenders Act is still very new, and that they will gradually succeed in informing the youth and their parents about it. They themselves have already received a good deal of information on it, and they know that the officers of the native police have also been informed. They want to become a bit more familiar with the Act before organizing information sessions through the school, the community radio or otherwise. They are thinking of themselves producing some audio-visual material for this purpose that is adapted to the Algonquin mentality and language. They hope to receive support in these efforts. Since they are themselves highly involved in the entire social intervention aspect of the Young Offenders Act and are Algonquins themselves for the most part, they do not believe it necessary to better inform the justice personnel on the social and cultural realities of the Algonquin communities. They feel that they themselves can provide all required information when necessary. Besides, they point out, only a few cases reach the Youth Court: 90 percent of the cases are settled within the community, whether because the police officers lodge no complaint or because they themselves, as delegates of the DYP, call for a halt to intervention or arrange a sentencing alternative.

When the juvenile finally has to appear before the Youth Court, they supply him all the necessary information. They emphasize that young people take appearance in court somewhat lightly, and hope that this attitude will change with the new Act, since the latter encourages youth to become more

responsible. For this reason they prefer the Young Offenders Act to the previous Youth Protection Act. They point out that both always made a very clear division between social intervention and legal intervention, and permitted them to make maximum use of all available resources before going before the court. Once before the court, they propose very specific solutions to the judge in regard to the juvenile on trial, and the recommendations are generally followed to the letter. They are therefore very satisfied with the present workings of the Youth Court. They even wonder to what extent a para-legal adviser might not be duplicating the services they already provide to youth. Indeed, they say, we are ensuring the necessary rapprochement between the juvenile and the justice system. They concede, however, that the para-legal adviser could see to the preparation and circulation of information on the laws more particularly affecting young people. They say that the parents of juveniles who must stand trial travel to the place where the court sits and take part in the proceedings. When asked about the usefulness of creating justice committees within the Algonquin communities, they do not necessarily declare themselves opposed, but have the impression that this is somewhat comparable to what their own interventions are now in effect accomplishing. Indeed, they insist that they consult the principal parties concerned in the community when a juvenile commits offences. On the other hand, if such a committee were to have more extensive powers, their opinion is that there would be a danger of seeing disparities in the sentences. They futher state that it would be difficult to guarantee the permanence of such a committee in each community.

First and foremost, they believe that it is necessary to direct the efforts of all personnel toward prevention. They mention their needs in several areas: a place to gather, leisure activities, communication with parents, adaptation of newcomers to the communities, the need to construct new housing in the communities (if there is no place for the juvenile in his own

home, he runs away to the city). They also indicate that they have generally been satisfied with the services offered by the rehabilitation centres they have used, though only very infrequently, either in Ontario or in Quebec (in Montréal and Shawbridge). They are skeptical about the project at the L'Étape rehabilitation centre in Val d'Or.

5.1.5 Political Representatives

In Lac Simon, we met three members of the Band Council. It is interesting to note that one of them also serves as a community worker; this person we consequently met with twice.

They say that the young people and their parents do not know the laws or else have only a very vague awareness of them. They know, for example, that there is a different system for juveniles. Though they are agreed on the circulation of information on the Young Offenders Act, they point to the problem of translation that is needed not only on the language level but also the conceptual level. Moreover, they feel that it is especially necessary to refer to the experiences of the people, and to listen carefully to them before trying to inform them about laws that concern them only in a very circumstantial way.

On the other hand, they believe it would be useful to inform the agents of the justice system about native Indian realities. They refer in particular to the Algonquin mentality, which is very different from the mentality that predominates within the justice system. They state that it is generally humiliating for an Algonquin to appear before a court because the court does not recognize his mentality. In their opinion, he is mocked. They feel that anthropologists or sociologists could organize information sessions to deal with this problem; judges and lawyers could be invited, and they themselves would agree to participate in such sessions.

Though few young people are required to appear before the courts, they view this situation as being nonetheless in contradiction with their own mentality. As they see it, the need is not to punish youth but to help them. They indicate that it is still more humiliating for the juvenile's parents to be identified as being poor educators. The juvenile required to appear before the court speaks French and understands what he is asked, but his parents do not; the community workers explain the situation to them. The Band Council members would thus like to be able to speak themselves with youth who are in difficulty. Apparently this is what occurs when an offence is committed within the community. On the other hand, when an offence is committed outside the community, the juvenile may find himself before the court, a situation they scarcely seem to appreciate even though such cases are more or less rare. Generally, the social intervention allowed by the Young Offenders Act is utilized when a complaint is lodged against an Algonquin juvenile.

If they seem unwilling to make use of the justice system, the members of the Lac Simon Band Council are nonetheless conscious of the difficulties encountered by their community's young people. In this connection, they specify the same needs as the social services personnel. However, they seem more interested in the idea of seeing a para-legal adviser given a mandate to intervene with young people. Indeed, they would like to see him supply information on what may happen to a juvenile when he commits an offence, organize and direct projects with youth, and finally ensure that there is a follow-up on these same issues in the school. They feel that there are grounds for utilizing, as needed, the institutional rehabilitation resources that are available, but emphasize that there will be the subsequent problem of the social reintegration of the juvenile who has lived in a centre run by non-Indians. For their part,

they indicate that they have already presented a plan for the creation of a group home. This home would be located outside the reserve, in Algonquin territory; it would be open to youth in difficulty but also to all Algonquins feeling the need to return to the traditional life. The Algonquin organizers working there would strive to listen to the people and to help them. If the project is accepted, this home could be a complementary resource to the already existing institutional resources.

5.2 Analyst's Comments

The judicial district of Abitibi is vast, and covers various native communities: Algonquin, Cree and Inuit.

The Algonquin communities situated near the courthouses and legal aid offices of this judicial district do not seem to suffer from a lack of legal services in this regard. This being said, there seems to be a hesitation if not a mistrust on the part of these communities toward the justice system. The community itself generally takes charge of young Algonquin offenders, with or without the use of the social dimension of the Young Offenders Act. The community workers acting as delegates of the Director of Youth Protection are all products of the communities they serve. They are well acquainted with the social and cultural realities of these communities, and inform the justice personnel of them when necessary. If there is a need for information on the Young Offenders Act and the justice system generally, this need appears neither very obvious nor very urgent. The lack of specialized institutional resources for rehabilitation, if it too is real and specified by our informants, likewise does not seem to be creating any immediate problems.

As to the Cree communities served by the judicial district of Abitibi, theirs is a completely different reality. Situated some distance from the judicial centres of Val d'Or and Amos, they have their justice administered by the Circuit Court. One of our informants, a lawyer, commented at length on the problems this situation causes: substantial delays, prolonged absence of the court, communication and comprehension difficulties between the justice personnel and young Cree offenders. He says that the project of establishing justice committees there is widely discussed at present. He has himself participated in the drafting of a document that discusses this situation in depth. This document is now being studied by all the Cree band councils who might ratify and make it public within a few weeks. Based on an inquiry similar to our own which was carried out last summer in each of the Cree communities, this report should be read as soon as possible so that we can become more thoroughly aware of the opinions of the Cree young people, parents, social services personnel, and political representatives in this regard. The following section will enlighten us on the Inuit communities.

6. KUUJJUAQ

6.1 Descriptive Review

6.1.1. Juveniles

In Kuujjuaq we met some members of the youth committee. From 14 to 20 years old, some of them work, others are students, and one is now unemployed. We were accompanied during the interview by the Director of the Social Services Centre. The three boys in the group expressed themselves in English with facility and animation. The two girls responded briefly and timidly to the questions once they had been translated into Inuktitut.

They told us that they had heard of the Young Offenders Act, but would like to know more about it. By means of their committee, they hope to be able to invite people who can give them better information. They especially want to know what can happen to a young person who is declared guilty of one or several offences.

For them, the judges and lawyers remain strangers before whom it is humiliating to speak of the mistakes they might have made. In their opinion, the youth who appear before the Youth Court do not understand what goes on there, mainly because of translation problems. They say that these youth are not aware of what the penalties may be for the offences they have committed, and yet they are always very afraid when they appear before the court. They declare that they would rather be judged by the members of their own community, provided the latter are well qualified to do so. There in fact seems to be a fear that the adults might be too severe with them, but they would consider

this situation preferable to the currently prevailing one. They would like one of the social workers to join this committee, saying that it is often easier to confide in a white social worker than in their own parents.

In their opinion, if certain young people commit offences, this is primarily because they do not receive enough attention from their own parents. They emphasize that dialogue between the generations is far from easy. Their parents seem to be accusing them of destroying the Inuit culture; they respond that they are not the ones who introduced the white man's technology, etc.: the conflict is clear. Through their centre, which will soon open, these young people hope to promote several activities, both sports and cultural. They hope that the adults, and especially the elders, come there to meet the young people. They would like to organize meetings there where all the social services personnel in the milieu could discuss the problems of youth. They speak a good deal of plans for trips through the territory. They feel that too few parents allow their children to travel in the territory and that very often it is easier to learn with other persons than with one's own parents. They would like to have exchanges with native youth in the Northwest Territories and Greenland. In regard to institutional rehabilitation resources, they believe it would be preferable to see a group home set up in Kuujjuaq itself to help youth in difficulty. In their opinion, the rehabilitation centres of the South sometimes achieve good results, but have the disadvantage of separating the juvenile from his family and his milieu. They add that if there are no activities for him when he returns, there is a great risk of his going astray again.

6.1.2 Parents

In Kuujjuaq we met a highly respected woman who generally sits on most of the committees representing the sages, the elders. She is a member of one of the most influential Inuit families not only on Ungava Bay, but also on the Canadian political scene.

The laws and the courts have little importance for her. This is an area that hardly seems to concern her at all. She is much more preoccupied with the lack of dialogue between many parents and their children. She feels that many children suffer from neglect, and consequently commit mistakes that they would not commit if anyone bothered about them. She proposes that traditional activities be re-emphasized: for example, needlework for girls, hunting for boys. She believes that it is necessary above all to help young people, talk to them and understand them instead of judging and punishing them. She would agree to assist the social workers when they have to meet with youth who are in difficulty. She declares herself prepared to go and talk with the parents to counsel them and try to improve the situation. For her, any eventual justice committee would have purpose only insofar as it could succeed in assisting the families and their children. She feels that a possible group home should have the same objectives.

We also met the principal of the Kuujjuaq school, in whose view it would be important to better inform young people on the Young Offenders Act. He says that he is ready to provide this information in the school itself, to the extent that he obtains educational material on the subject.

According to him, the young people are bewildered by the justice system: first, because of the long delays between the commission of an offence and the arrival of the court, and

second, because of problems of translation and general comprehension of the roles of the judge and lawyers. He feels that the creation of a justice committee might improve this situation, but he remains uneasy: would this committee respect individuals' rights? Is there not a danger that its sentences would be too severe? Finally, it is his opinion that a jurist should be required to sit on this committee in order to ensure true protection of personal rights.

At any event, the most important issue for him is prevention. He points out in this connection that fewer offences have been committed in Kuujjuaq since the increase in organized activities. He is personally in charge of organizing a hockey league; for him this is volunteer work that demands a great deal of energy. He feels that once the new school is built it will be still easier to keep the youth occupied. However, he believes that a community organizer should be employed full-time in Kuujjuaq in order to fill this great need for organized activities, not only for young people but for adults as well. The need is the more pressing for children in that a number of them appear to be neglected by their parents.

With respect to institutions that specialize in rehabilitation, he believes that the Inuit juveniles who go there withdraw into themselves, and come out without having made any progress. He thinks it preferable to use the services of a group home situated in Inuit territory. This home could then give assistance to young people in times of difficulty without their having to be cut off from their milieu.

6.1.3 Justice Personnel

There is reason to refer here to the preceding section's presentation of the testimony of the judges and lawyers met in Abitibi, because their comments chiefly pertain to Kuujjuaq and the other Ungava Bay communities. In Kuujjuaq we also met an officer of the Quebec Police Force who has served for some years now in various Inuit communities.

In his opinion, Inuit juveniles are no more familiar with the Young Offenders Act than with other laws. He feels that a special effort would have to be made to supply information on the subject.

However, he is convinced that young Inuit offenders understand the reasons why they find themselves before the court: they know that they have done wrong and that the community wishes to protect itself, while helping them at the same time. In other respects, he feels that they probably do not understand the notions of appearance in court, appeal, and other procedures. He states that it would be preferable to have round-table discussions on the most important cases rather than engage in legal arguments which the youth do not understand. The possible creation of justice committees could improve the situation in this regard. Such a committee would have the advantage of being able to order preventive measures almost immediately and ensure their supervision while awaiting the arrival of the court. While it is true that the present Director of Youth Protection in Kuujjuaq is now similarly empowered, the officer considers that the justice committee will have greater impact because it will act publicly.

He also points out that the person now in charge of the Circuit Court intends to spend more time in the community during sessions as of next September. He is glad of this, because he feels there is a need for a more continuous presence of the court within the community. In his view, the para-legal advisers require better training and, above all, much more support. Too often they seem disadvantaged and insecure within the mandate they are supposed to carry out. He also complains that the Kuujjuaq hospital still does not have an isolation room where juveniles could, if necessary, be detained, as is provided for in the James Bay and Northern Quebec Agreement.

In his opinion, the juveniles commit so many offences because they have nothing to do. He mentions that there have already been efforts in this direction, chiefly with regard to sports, but there is still much to do. To him, alcohol and drugs are a serious problem, not only for juveniles but also for adults. He declares himself completely dissatisfied with the work done in this area by a number of social services workers (the NADAP project). He also sees the social services as lacking in resources: in his view, juveniles with family or social problems require the assistance of psychologists. He supports the idea of creating a group home in Inuit territory. He believes that this experiment is worth the trouble of carrying out, especially since the southern rehabilitation centres now satisfy the needs of Inuit juveniles more or less inadequately.

6.1.4 Social Services Personnel

In Kuujjuaq we met two social workers and the Director of Professional Services, a section of the social services offered throughout the Inuit communities of Ungava Bay. They see the Young Offenders Act as being not well enough known to Inuit juveniles and their communities. They have already presented a project on this matter; it has been accepted and should get

underway shortly. It involves the translation of currently available posters and brochures into Inuktitut and the production of a video documentary that is adapted to the needs of the milieu. They are launching this project in full awareness of the difficulties of enforcing the Act in an Inuit milieu. They emphasize that many Inuit feel the laws to be an invasion of their lives and their customs. They feel, however, that for the time being it is their duty to enforce the existing laws, and they attempt to do so while at the same time respecting as far as possible the social and cultural particularities of the Inuit.

On a recent consultation tour, the Inuit indicated to them that they would prefer to administer their own justice themselves. They speak of creating a justice committee in each village, composed of five people: a municipal council representative, a youth representative, a volunteer women's representative, a Social Committee representative, and finally a person appointed by the community, probably an elder recognized for his wisdom and knowledge of the traditions. Their desire to do this seems as much an affirmation of their identity and self-sufficiency as of their dissatisfaction with the services now provided by the justice system. Their specific complaints include the young people's incomprehension of this system, its prolonged absence from the villages, the incredible delays between the crisis situation and the system's resolution of the conflict, the difficulties of sustained communication with the lawyers, and finally, the fact that while the court may be feared, it hardly seems to be respected. According to the social workers and the social services director, the only viable alternative is to let the Inuit administer their own justice on the basis of their own customs and morals. They feel that the Inuit must be given the power to confront juvenile offenders and if necessary impose sentencing alternatives on them, if not orders, as the Youth Court does.

As to the social dimension of the Young Offenders Act, the presence in each village of an Inuit community worker acting as a delegate of the regional Director of Youth Protection would seem to permit the execution of alternative measures or community work sentences while simultaneously involving the youth, the victim and the milieu. Our informants tell us that the Inuit are quick to recognize the mistakes they make and are generally ready to make reparation for the wrong done insofar as this can be done in concrete terms and immediately after the commission of the offence.

The social services personnel seem quite dissatisfied with the rehabilitation resources available. They feel it would be economically and therapeutically more profitable to set up a group home and a rehabilitation centre in Inuit territory. Thanks to educators born in the milieu and activities that bring Inuit cultural taditions to the fore, it would be possible to work on the psychological and social problems of young people and to succeed in progressively reintegrating them in the milieu.

6.1.5 A Political Representative

In Kuujjuaq we met the head of the hospital's board of directors, who is also a municipal councillor. Like the majority of our informants, he told us that the Young Offenders Act, like most laws, is not known to the population. In his opinion, young people lack respect for the court. He would like to see the court come more often to Kuujjuaq, or to have justice administered in the area by a justice committee. He emphasizes that there is much work to be done on prevention with regard not only to juveniles but adults as well. He feels that sending juveniles to rehabilitation centres in the south solves nothing: their stay there is like a holiday for them; it would be preferable to have them stay within their own territory and see

their friends profit from their liberty. In this way they could reflect and mend their ways. He himself says that he is prepared to serve on a justice committee, should one ever be established.

6.2 Analyst's Comments

The application of the social aspect of the Young Offenders Act seems to arouse scarcely any negative reactions in Kuujjuaq. The Director of Youth Protection and her delegates are all products of the milieu and appear to be respected. Our informants' evidence indicates that the spirit and fundamental principles of the Young Offenders Act seem to correspond to the Inuit's own traditions and morality. What presents the problem is the clumsy machinery of the legal enforcement of this Act by means of structures and procedures that are alien to the communities involved. However, many cases come before the court each year: 40 last year, for the entire Ungava Bay region. Yet this number is far below the previous year, when about 100 cases were reported. What is the explanation for this phenomenon? Is it due to the work of the police officers? Or to the honesty of the Inuit, for whom it is less a question of discovering whether a person is guilty than of ascertaining whether he did such or such a thing? The question has remained unanswered. The drop in cases certainly does not seem to mean that more juveniles were profiting from the services of rehabilitation centres, for the feeling is that the latter are of very little help to young people.

7. QUEBEC

7.1 Descriptive Review

We did not conduct a systematic inquiry in the region of Québec, but we questioned a few representatives of the Attikamek-Montagnais Council who, to be brief, completely confirmed the findings of our inquiry in Mingan. We were also present at and actively participated in a meeting that took place at the Department of Justice of the Government of Quebec.

While the chief purpose of this meeting was to inform the principal provincial ministers concerned with the implementation of the Young Offenders Act of the findings of our own inquiry, we were also able to gain some interviews with certain officials. One of them announced to us that he personally was prepared to endorse our research findings. In his opinion, we had successfully grasped the body of problem elements in the implementaton of the Young Offenders Act. Referring particularly to the current situation of the Cree and the Inuit, he emphasized to us that grave problems exist with regard to delays; the training of personnel, starting with police officers; the right to the services of counsel, which, if actually claimed, could not be satisfied; and detention prior to appearance in court, which is currently taking place in police stations upon authorization to this effect by a justice of the peace. Furthermore, he feels that the most serious deficiency lies in the workings of the court as such: the problem of interpreters, the court's lengthy absence from the community, the lack of comprehension of the system on the part of native juveniles and their parents. This public official also mentioned the lack of institutional resources for rehabilitation. He estimates that it would probably be possible to improve this situation in the short term by allowing native personnel to work in the L'Étape Rehabilitation Centre in Val d'Or and creating group homes in

some Cree and Inuit communities. Finally, he pointed out that it would perhaps be permitted to adapt the sentencing alternatives program to the special needs of natives. He indicated that the native communities ought to make their needs clear in this regard to the Department of Justice of the Government of Quebec, which could then act accordingly. Obviously, he concludes, the departments must act within the framework of the present laws, notably those passed by the federal government - this being a direct allusion to the Young Offenders Act - but in his opinion this framework contains room, contains sufficient latitude, to satisfy the special needs of native youth and native communities. In support of his statement, he refers in particular to the Lévesque motion carried in the National Assembly last March, a motion which allows the government to conclude specific agreements with the aboriginal nations of Quebec (cf. Appendix).

7.2 Analyst's Comments

Though the Young Offender Act has only been in force for about a year, it already appears evident that it cannot be fully enforced in the Cree and Inuit communities. The attitude of the officials of the principal departments concerned seems to permit the latitude necessary to ensure that its principles are known and respected in these communities. In conclusion, arrangements seem possible at the level of provincial jurisdiction. It would seem that the native communities need only clearly express their needs for the arrangements that those needs necessitate to be specifically inscribed in a provincial order.

III. POSSIBLE SCENARIOS

III. POSSIBLE SCENARIOS

The body of comments that we collected during our inquiry yields certain points agreement in regard to information, the legal process, and the resources available to each of the communities studied. We will point these out here, while also proposing certain directions which, under the enforcement of the Young Offenders Act, might permit the special needs of young native offenders to be met in the short and middle terms.

1. REGARDING INFORMATION

Our inquiry reveals that the Young Offenders Act is apparently neither more nor less well known to the native communities than the Youth Protection Act or the rules on adoption. While the more elderly are very puzzled as to why inquiries need be made of them, younger people and the social services personnel generally evince the desire to gain a better idea of what can happen to a young person in conflict with the law. To ensure that the content of the Act is communicated and understood, a number of them state that they are ready to play some part in the production of educational material on this subject. This could assure a double translation: in terms of both language and culture.

This desire to learn and to participate in the transfer of knowledge must be supported by specialized resources. Obviously, an in-depth understanding of the actual experience of a young native offender presupposes an overview of the justice system and its legal foundations. Also, legal experts must necessarily be involved in the preparation of educational material that can subsequently be used by native juveniles and their communities. While this familiarity with the justice system is necessary, however, it is not sufficient to ensure the success of the undertaking. If dialogue is to be established

with the native social workers, the social control mechanisms in these communities must be acknowledged and respected. To a confident legal spirit must be added an attitude favourable to cultural relativism. It would then hopefully be possible, on the one hand, to meet the information needs of the native communities while making full use of their own resources, and on the other, to meet the information needs of the agents of the justice system, who call on these communities to exercise their social control themselves, even as they ask themselves about the mechanisms of that control.

The experience of social workers and community workers is certainly most useful in this area. On the one hand, insofar as they have a good practical knowledge of the social and cultural characteristics of these communities, and on the other, because they are obliged by the law to ensure the implementation of the Young Offenders Act, the Youth Protection Act and the rules on adoption in these communities, it is clear that they are the links in a process of cross-cultural exchange. But since a judicial aspect can bias their relation to a juvenile offender, for example, from the moment they can make decisions about him when supervising the execution of alternative measures or when drafting a pre-disposition report, perhaps another party should be allowed to guarantee a complete separation between social intervention and judicial intervention?

The para-legal adviser could guarantee this type of independence. We say "could" advisedly, for such a task is very demanding. Indeed, it involves being able to approach the young person and developing a relationship of trust with him, which in practice necessitates being ready to listen to him and thus, in a sense, duplicating the efforts of the community workers and social workers, while at the same time remaining a source of objective information on the juvenile's rights, court procedures, and the very workings of the justice system. In other words,

the task demands competence in two distinct fields: law and social work. Candidates for the position of para-legal adviser must receive adequate training in both. Nowhere is it written that this training must be purely academic, but the fact remains that education in the rules of law of Euro-Canadian society is long and laborious. It seems to us, however, that this is the price to be paid for truly effective para-legal advisers. Without requiring of them the same skills as a lawyer, they must be able to explain the lawyer's role in the justice system. Without requiring of them the same skills as a social worker, they must be able to grasp the young person's particular family and social situation as well as the methods and objectives of his social worker's intervention. The basic objective of the para-legal adviser would thus be to strive to compound the outcomes that are the joint aims of social and judicial intervention by, on the one hand, participating in the production and dissemination of educational material on the Young Offenders Act, and, on the other, counselling young people who have to answer to the justice system for their actions.

2. REGARDING THE JUSTICE SYSTEM

Seen from this perspective, the para-legal adviser's role relates primarily to the individual, to the juvenile who becomes liable to prosecution after committing one or several offences. In order to ensure that the para-legal adviser's intervention is consistent in terms of the justice system as such, first of all his mandate should clearly define who will be the priority recipients of his services. In our view, he should first and foremost serve the young offender, inform him of his rights, and explain to him the logic and procedures of the justice system, and be capable as well of grasping the family and social situation that forms the context of the offence committed. The role of the para-legal adviser would thus be of

major importance especially to those less familiar with the processes and purposes of the justice system. As mentioned above, those wishing to practise as para-legals should be provided with adequate educational resources. Furthermore, they should be guided in their daily practice by sustained professional supervision.

In our opinion, the dialogue with the native communities as to the role that the para-legal adviser should play must still be continued, because some people feel that it would be preferable to create other legal mechanisms than those that the justice system now has in effect. Thus the part that such para-legal advisers might play in the possible creation of new, properly native, legal mechanisms remains largely unclear.

If para-legal advisory positions are created for young native offenders, there is no question but that a genuine co-ordination must be established among all the personnel who work with these youth; otherwise, there is risk of doing harm to the principals concerned instead of helping them. Such co-ordination between the various departments involved, both provincial and federal, would therefore have to be ensured at the outset.

3. REGARDING AVAILABLE RESOURCES

As indicated earlier, the social services personnel acting within the framework of the Young Offenders Act seem to be adequately meeting the needs of young native offenders. If the situation seems less satisfactory in regard to information relative to the Act and the judicial process as such, the creation of para-legal advisory positions for native juveniles and the possible establishment of justice committees might both

seem to have been lacking to date, i.e., an adequate knowledge of the family, social and cultural realities characteristic of young native offenders.

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On the basis of the points of agreement that we feel may be found in the body of comments we collected during our inquiry, this discussion has attempted to identify certain scenarios that can yield better satisfaction of the special needs of young native offenders. It must be emphasized that these scenarios assume a collaboration between the native communities concerned and the social services and justice personnel who are responsible for the group of laws in question, and principally the Young Offenders Act. For such a collaboration to exist, it is first necessary that the spirit of these laws as well as their principles be genuinely recognized within these communities. The inquiry we have carried out leads us to believe that such is the case. But the limits connected to the methodology we have used do not permit us to affirm this with total certainty. We would also insist here that our report in its entirety be the subject of specific discussions between the native authorities and governmental authorities concerned before any further steps are taken.

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RECOMMENDATION

RECOMMENDATION

Whereas our inquiry reveals that a number of needs of native juvenile offenders are not fully satisfied by the services presently offered by para-legal advisers and a number of other services in the context of the enforcement of the Young Offenders Act, we submit the following recommendation:

That the Department of Justice in light of the present report and its own information:

1) thoroughly examine, by means of specific studies, the role that para-legal advisers should play with respect to native juvenile offenders;

2) define, in consequence, the requirements for the training and professional supervision of these para-legal advisers;

3) promote the training of all personnel who work with native juvenile offenders, especially through education sessions dealing with general knowledge of native realities and the particular attitudes to be adopted in situations of cross-cultural exchange;

4) evaluate its native community information programs and, if need be, promote consultation mechanisms for better communication and greater efficiency of the said programs.

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APPENDIX A
List of Informants

LIST OF INFORMANTS

1. RESTIGOUCHE

Judge Jean Arsenault	Youth Court
Mr. Clément Bernard	Para-legal adviser for Restigouche and Maria
Mr. Michel Déry	Quebec Police Force officer, Matapédia
Mr. Médor Doiron	Social worker, Native Indian Section
Mr. Jean Dupuis	Probation officer, Campbelton, N.B.
Mrs. Françoise Gédéon	Social worker, unit head of the Native Indian Section
Mrs. Joyce Germain	Educator at the Restigouche Day Centre
Mr. Robert Lévesque	Representative of the Attorney General
Mr. Henry Martin	Chief of Native Indian Police, Restigouche
Mrs. Suson Métallic	Educator at the Restigouche Day Centre
Mr. Roger Sylvestre	Program Director of the Les Amets Reception Centre
Mr. Marc Turcotte	Director of Professional Services and Re-education, Les Amets Reception Centre

2. MINGAN

As indicated in the report in the section on the Mingan region, the informants in the community raised the issue of confidentiality. We therefore chose not to give the list of informants here. Nonetheless, Mr. Jean-Charles Pietasho and Mr. and Mrs. William Napess, respectively Band Manager, the head of social services and the head of education, did local organization work in the field for the inquiry.

3. MONTRÉAL

Lt.-D. Guy Bernard	Police officer, CUM [Communauté urbaine de Montréal] Station 25
Mr. Jean-Guy Défossé	Police officer, CUM Station 33, Youth Aid Section
Mr. René de Repentigny	Representative of the Attorney General, Longueuil
Mr. Jean Gauthier	Probation officer, Longueuil
Mr. Jacques Jobin	Native Friendship Centres Group
Mrs. Sylvie Lagacée	Representative of the Attorney General, Montréal
Mr. Robert Lanari	Makivik Corporation
Mrs. Peggy Mailhot	Para-legal adviser, Montréal and environs
Mr. Waheed Malik	CSSMM [Metropolitan Montreal Social Services Centre]
LT.-D. Raoul Mongeau	Police officer, CUM Station 21
Mr. Claude Poudret	Police officer, CUM Station 34, Youth Aid Section
Mrs. Joyce Smith	CSSVM
Mrs. Colette Vidal	Director of Friendship Centre, Montréal

4. LA MAURICIE

Mr. Benoît Awashish	Native Indian Police officer, Obedjiwan
Mr. Francis Awashish	Student
Mr. Gabriel Awashish	Native Indian Police officer, Obedjiwan
Mr. Jean-Marc Awashish	Native Indian Police officer, Obedjiwan
Mr. Marcel Awashish	Native Indian Police officer, Obedjiwan
Mr. Serge Awashish	Community worker, Atikamek Sipi

Mrs. Anne-Diane Béliveau	Social Worker, Laurentian-Lanaudière Social Services Centre (SSC)
Mr. Maurice Boisvert	Director of Youth Protection, Central Quebec SSC
Mrs. Claire Brosseau	Social worker, Laurentian-Lanaudière SSC
Mr. Roger Chachai	Native Indian Police Officer, Obedjiwan
Mr. Albert Cleary	Para-legal adviser
Mrs. Alice Cleary	Community worker, Atikamek Sipi
Mr. Lucien Dallaire	Representative of the Attorney General, La Tuque
Mrs. Chantal Garant	Social worker, Atikamek Sipi
Mr. Louis Hanrahan	Social worker, Atikamek Sipi
Mr. Lucien Jean-Pierre	Band Chief, Obedjiwan
Mr. Jacques Léveques	Lawyer, La Tuque
Mr. Alain Manceau	Representative of the Attorney General, Joliette
Mr. Jean-Claude Miwish	Student
Mr. Paul Morasse	Squad leader, Native Indian Police, Obedjiwan
Mr. Paul-Émile Ottawa	Community worker, Atikamek Sipi
Mrs. Jacqueline Roc	Community worker, Atikamek Sipi
Mr. Réjean Sauvageau	Community worker, Central Quebec SSC
Mr. Marcel Vaillancourt	Social Services Director, Atikamek Sipi
Mrs. Louise Wisino	Community worker, Atikamek Sipi

5. ABITIBI-TÉMISCAMINGUE

Mr. Claude Beaudet	Legal Aid, Val d'Or
Mr. Daniel Bédard	Lawyer, Val d'Or
Judge Serge Boisvert	Provincial Court

Mr. Normand Bonin	Legal Aid, Val d'Or
Mr. Myriam Bordeleau	Bâtonnier, Representative of the Attorney General, Amos
Mr. Jacques Bourgeois	Social worker, Val d'Or
Mr. Caumartin	School principal, Lac Simon
Mr. Alex Chizoo	Community worker and councillor on the Lac Simon Band Council
Mr. Gilbert Chizoo	Band Manager, Lac Simon
Judge Jean-Charles Coutu	Provincial Court
Mr. Richard Duchesneau	Representative of the Attorney General, Val d'Or
Mr. Paul Huard	Community worker, Ville-Marie
Mr. Lloyd Hunter	Community worker, Kipawa
Mr. Don Jackson	Probation officer, Val d'Or
Mrs. Jackie Kistabish	Parent, Val d'Or
Mr. Allen McBride	Community worker, Notre-Dame-du-Nord
Mr. Marcel Mathias	Community worker, Winneway
Mrs. Suzanne Mowatt	Community worker, Pikogan
Judge Gilles L. Ouellet	Youth Court
Mr. Jean Papati	Chief, Lac Simon Band Council
Mr. Michel Raîche	Community worker, Senneterre
Mr. Dominique Rankin	Director of Val d'Or Native Friendship Centre
Judge Miville Saint-Pierre	Provincial Court
Mrs. Monique Sioui	Parent, Vald'Or
Mr. Vincent Sioui	Director of Native Indian Social Services, Abitibi-Témiscamingue SSC
Mr. Patrick Tshernish	Supervisor, Native Indian Police, Lac Simon

and about twenty other people from Lac Simon.

6. KUUJJUAQ

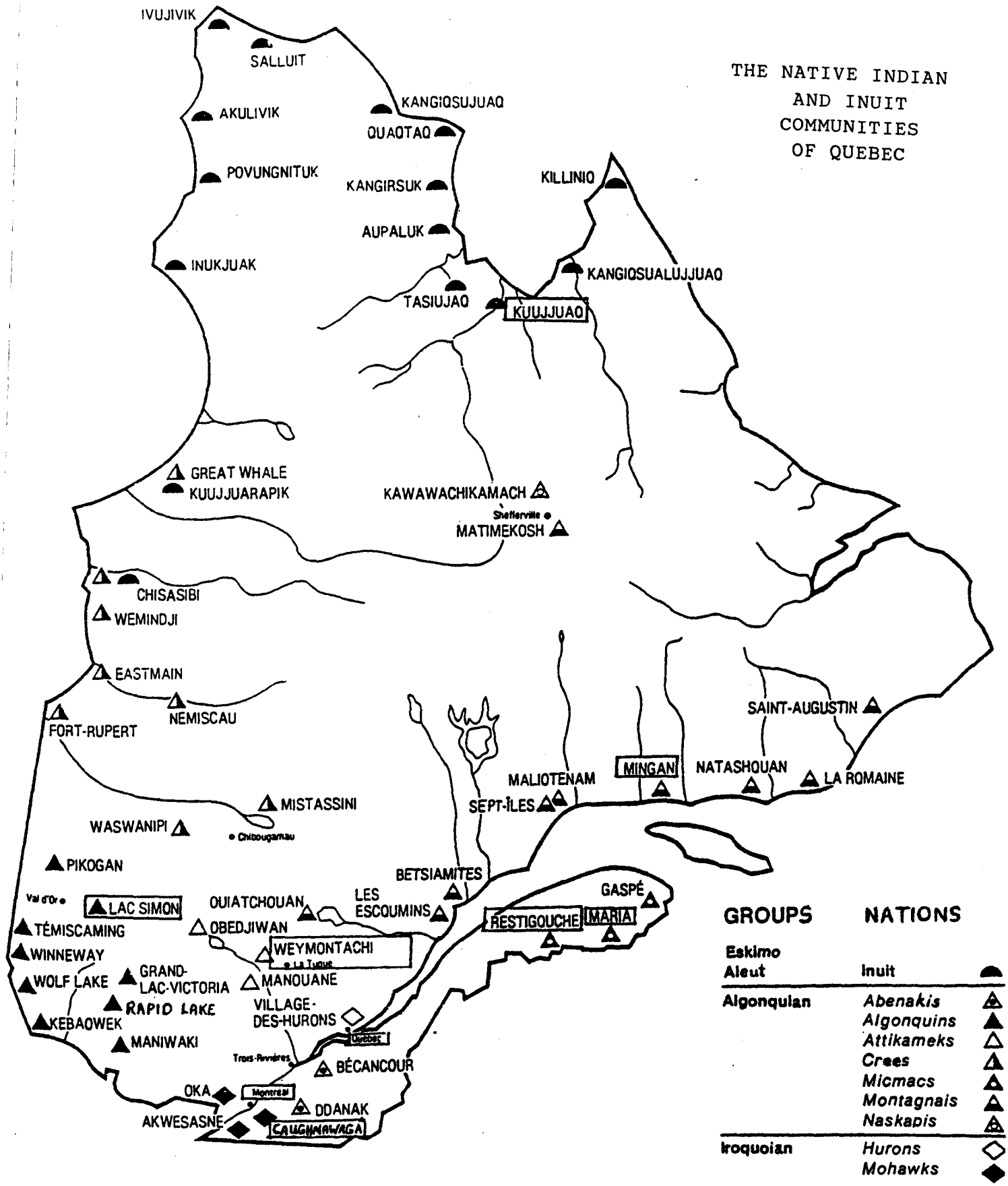
Miss Mary Adams	Student
Mr. Tommy Adams	Unemployed Youth
Mrs. Mary Angnatuk	Parent
Mrs. Hélène Béchamp	Social worker
Mr. Mario Choquette	Quebec Police Force officer, Kuujjuaq
Mr. George Koneak	Municipal councillor and head of Kuujjuaq Hospital Board of Directors
Mr. Pierre Laganière	Social worker
Mr. Georges Peters	Student-worker
Mr. Yvan Rioux	Director of Kuujjuaq SSC
Miss Eva Sequaluk	Student
Mrs. Daisy Watt	Parent
Mr. Robie Watt	Student
Mr. Keith Withdrow	Principal of Kuujjuaq School

7. QUEBEC

Mr. Jacques Auger	Department of Justice of Quebec
Mr. Marc Boulanger	Department of Social Affairs
Mrs. Marie-Claude Gill	Attikamek-Montagnais Council
Mr. Jacques Héroux	Department of Justice of Quebec
Mrs. Chantal Jean	Department of the Solicitor General
Mr. Pierre Michaud	Department of Social Affairs
Mrs. Anne Napess	Attikamek-Montagnais Council
Mrs. Anne St-Onge	Attikamek-Montagnais Council
Mr. Jean Turmel	Department of Justice of Quebec
Mr. Paul Turmel	Para-Legal Advisers' Services to Natives of Quebec

APPENDIX B

Populations of the Native Communities of Quebec


THE NATIVE INDIAN AND INUIT COMMUNITIES OF QUEBEC
IVUJIVIK
SALLUIT
KANGIQSUJUAQ
AKULIVIK
QUAQTAQ
POVUNGNITUK
KANGIRSUK
KILLINIQ
AUPALUK
INUKJUAK
KANGIQSUALUJJUAQ
TASIUJAQ
KUUJJUAQ
GREAT WHALE
KUUJJUARAPIK
KAWAWACHIKAMACH
Schefferville
MATIMEKOSH
CHISASIBI
WEMINDJI
EASTMAIN
NEMISCAU
FORT-RUPERT
SAINT-AUGUSTIN
MALIOTENAM
MINGAN
NATASHQUAN
LA ROMAINE
SEPT-ÎLES
MISTASSINI
WASWANIPI
Chibougamau
PIKOGAN
BETSIAMITES
GASPÉ
Val d'Or
LAC SIMON
OUIATCHOUAN
LES ESCOUMINS
RESTIGOUCHE
MARIA
TÉMISCAMING
OBEDJIWAN
WEYMONTACHI
La Tuque
WINNEWAY
WOLF LAKE
GRAND-LAC-VICTORIA
MANOUANE
RAPID LAKE
VILLAGE-DES-HURONS
KEBAOWEK
MANIWAKI
Québec
Trois-Rivières
BÉCANCOUR
OKA
Montréal
DDANAK
AKWESASNE
CAUGHNAWAGA
GROUPS
NATIONS
Eskimo
Aleut
Inuit
Algonquian
Abenakis
Algonquins
Attikameks
Crees
Micmacs
Montagnais
Naskapis
Iroquoian
Hurons
Mohawks

Quebec

. Population of the Native Communities of Quebec

Nation	Village	Village Population	Total Band Population
Native Indians:			
Abenakis	Wôlinak(Bécancour)	80	100
	Odanak	204	679
		284	779
Algonquins	Grand-Lac-Victoria	300	300
	Kipawa	196	204
	Rapid Lake	255	295
	Lac-Simon	560	675
	Winneway	235	345
	Maniwaki	1000	1200
	Témiscaming	355	464
	Pikogan	350	479
	Wolf Lake	68	68
		3319	4030
Attikameks	Manouane	1032	1126
	Obedjiwan	1200	1400
	Weymontachi	654	675
		2886	3201
Crees	Chissibi	1940	1999
	Eastmain	326	381
	Waskaganish (Fort-Rupert)	1282	1362
	Mistassini	1951	2286
	Nemiscau	131	131
	Whapmagoostui (Poste-de-la-Baleine)	395	416
	Waswanipi	580	989
	Wemindji	753	853
		7378	8417
Hurons	Village-des-Hurons	800	1250
		800	1250
Micmacs	Gaspé	155	155
	Maria	450	500
	Restigouche	1505	2000
		2110	2655
Mohawks	Akwesasne	3395	3580
	Caughnawaga	5000	6000
	Kanesatake(Oka)	800	915
		9195	10495
Montagnais	Betsiamites	2018	2098
	La Romaine	690	825
	Les Escoumins	150	180
	Ouiatchouan	1500	1965
	Saint-Augustin	139	139
		7359	8090
Naskapis	Kawawachikamach	400	415
		400	415
Total Native Indian Population:		33231	39332

	Village	Inuit Population	Non-native Population
Inuit	Akulivik	310	7
	Aupaluk	114	4
	Inukjuak	670	30
	Ivujivik	220	5
	Kangirsualujjuaq	360	12
	Kangiqsujuaq	330	13
	Kuujjuaq	916	236
	Kangirsuk	293	10
	Kuujjuarapik	661	150
	Povungnituk	836	40
	Quaqtaq	175	4
	Salluit	650	30
	Tasiujaq	115	6
Total Inuit Population:		5650	547
Total Native Population:		*44982	

* There are estimated to be approximately 15,000 other persons of Native descent in Quebec who are not included in these figures.

Maliotenam/Sept-Iles	1600	1600
Matimekosh	500	510
Mingan	323	326
Natashquan	439	447

Source: SAGMAI, 15-03-84

APPENDIX C

Native Population Residing in Montreal

NON-STATUS	METIS	NON-STATUS AND METIS	STATUS	INUIT	STATUS AND INUIT	TOTAL NATIVE PEOPLES	ALL OTHER ETHNIC GROUPS	TOTAL
			FUNCTION: COUNT					
	AREA: SP24CD65CSD160		MONTREAL-EST					
-	-	-	-	-	-	-	3,705	3,710
	AREA: SP24CD65CSD180		ANJOU					
20	35	60	10	-	10	65	37,070	37,130
	AREA: SP24CD65CSD200		MONTREAL-NORD					
65	135	195	85	-	90	285	93,325	93,615
	AREA: SP24CD65CSD220		SAINT-LEONARD					
20	140	160	40	5	40	205	79,225	79,430
	AREA: SP24CD65CSD240		SAINT-JEAN-DE-DIEU					
ZERO VALUES ONLY FOR THIS AREA								
	AREA: SP24CD65CSD260		MONTREAL					
1,000	1,195	2,190	1,280	100	1,380	3,575	963,895	967,470
	AREA: SP24CD65CSD280		OUTREMONT					
5	10	10	30	-	30	40	24,295	24,335
	AREA: SP24CD65CSD300		WESTMOUNT					
15	20	40	15	-	10	50	20,230	20,285
	AREA: SP24CD65CSD320		VERDUN					
115	25	140	45	-	40	180	59,700	59,880
	AREA: SP24CD65CSD340		LASALLE					
140	60	200	180	-	180	380	75,870	76,250
	AREA: SP24CD65CSD360		MONTREAL-QUEST					
-	-	-	15	5	20	25	5,495	5,510
	AREA: SP24CD65CSD380		HAMPSTEAD					
-	5	5	-	-	-	5	7,590	7,595

NON-STATUS	METIS	NON-STATUS AND METIS	STATUS	INUIT	STATUS AND INUIT	TOTAL NATIVE PEOPLES	ALL OTHER ETHNIC GROUPS	TOTAL
			FUNCTION: COUNT					
AREA:	SP24CD65CSD400		SAINT-PIERRE					
-	20	20	15	-	20	35	5,060	5,095
AREA:	SP24CD65CSD420		LACHINE					
65	25	90	125	10	140	225	37,195	37,425
AREA:	SP24CD65CSD440		COTE-SAINT-LUC					
5	-	5	10	5	20	20	26,585	26,610
AREA:	SP24CD65CSD460		MONT-ROYAL					
-	10	10	5	-	5	15	19,090	19,105
AREA:	SP24CD65CSD480		SAINT-LAURENT					
100	90	185	70	-	75	260	65,130	65,385
AREA:	SP24CD65CSD500		DORVAL					
5	15	25	35	5	35	55	17,575	17,630
AREA:	SP24CD65CSD520		ILE DORVAL					
-	-	-	-	-	-	-	15	15
AREA:	SP24CD65CSD540		POINTE-CLAIRE					
10	5	15	30	-	25	45	24,465	24,510
AREA:	SP24CD65CSD560		ROXBORO					
-	5	5	20	-	20	25	6,270	6,290
AREA:	SP24CD65CSD580		DOLLARD-DES-ORMEAUX					
65	50	110	50	5	55	165	39,775	39,940
AREA:	SP24CD65CSD600		KIRKLAND					
30	15	50	-	-	-	50	10,360	10,410
AREA:	SP24CD65CSD620		BEACONSFIELD					
15	25	40	30	-	30	70	19,440	19,510

NON-STATUS	METIS	NON-STATUS AND METIS	STATUS	INUIT	STATUS AND INUIT	TOTAL NATIVE PEOPLES	ALL OTHER ETHNIC GROUPS	TOTAL
			FUNCTION: COUNT					
	AREA: SP24CD65CSD640		BAIE-D'URFE					
5	-	5	-	-	5	10	3,665	3,675
	AREA: SP24CD65CSD660		SAINTE-ANNE-DE-BELLEVUE					
20	-	20	5	-	5	25	3,045	3,075
	AREA: SP24CD65CSD680		SENNEVILLE					
-	-	-	-	-	-	-	1,130	1,135
	AREA: SP24CD65CSD700		PIERREFONDS					
10	-	10	70	-	65	75	38,090	38,170
	AREA: SP24CD65CSD720		SAINT-RAPHAEL-DE-L'ILE-BIZARD					
15	-	15	-	-	-	15	6,505	6,520
	AREA: SP24CD65CSD740		SAINTE-GENEVIEVE					
5	-	5	-	-	-	5	2,610	2,610
	AREA: SP24CD65		ILE-DE-MONTREAL					
1,745	1,910	3,650	2,195	140	2,335	5,985	1,731,575	1,737,560
	AREA: SP24CD66CSD120		SAINT-JACQUES-LE-MINEUR					
-	-	-	-	-	-	-	1,200	1,200
	AREA: SP24CD66CSD200		SAINT-MATHIEU					
-	-	-	-	-	-	-	1,515	1,515
	AREA: SP24CD66CSD280		SAINT-PHILIPPE					
-	-	-	-	-	5	5	3,185	3,185
	AREA: SP24CD66CSD300		LA PRAIRIE					
-	5	5	15	-	15	20	10,455	10,475
	AREA: SP24CD66CSD380		BROSSARD					
105	30	135	50	-	50	180	51,790	51,970

APPENDIX D

Lévesque Motion

DOCUMENT: 830-173/017

CONFIDENTIAL

FEDERAL-PROVINCIAL MEETING OF MINISTERS ON ABORIGINAL CONSTITUTIONAL MATTERS

Motion for the Recognition of Aboriginal Rights

Quebec

TORONTO, Ontario

March 11 and 12, 1985

NATIONAL ASSEMBLY

FIFTH SESSION THIRTY-SECOND LEGISLATURE

Order Paper and Notices

Tuesday, 18 December 1984 – No. 32
Ten o'clock

President: Mr. Richard Guay

ISSN 0825-3943

QUEBEC

V. Government Motions

(49) *Mr. Lévesque* (Taillon)—Motion for the recognition of aboriginal rights in Quebec:

THAT this Assembly:

RECOGNIZES the existence of the Abenaki, Algonquin, Attikamek, Cree, Huron, Micmac, Mohawk, Montagnais, Naskapi and Inuit nations in Quebec;

RECOGNIZES existing aboriginal rights and those set forth in The James Bay and Northern Quebec Agreement and The Northeastern Quebec Agreement;

DEEMS these agreements and all future agreements and accords of the same nature to have the effect of treaties;

SUBSCRIBES to the process whereby the Government has committed itself with the aboriginal peoples to better identifying and defining their rights — a process which rests upon historical legitimacy and the importance for Quebec society to establish harmonious ties with the native peoples, based on mutual trust and a respect for rights;

URGES the Government to pursue negotiations with the aboriginal peoples based on, but not limited to, the fifteen principles it approved on 9 February 1983, subsequent to proposals submitted to it on 30 November 1982, and to conclude with willing nations, or any of their constituent bands, agreements guaranteeing them:

(*a*) the right to self-government within Quebec;
(*b*) the right to their own language, culture and traditions;
(*c*) the right to own and control their land;
(*d*) the right to hunt, fish, trap, harvest and participate in wildlife management;
(*e*) the right to participate in, and benefit from, the economic development of Quebec,

so as to enable them to develop as distinct peoples having their own identity and exercising their rights within Quebec;

DECLARES that aboriginal rights apply equally to men and women;

AFFIRMS its will to protect, in its fundamental laws, the rights included in the agreements entered into with the aboriginal peoples of Quebec; and

AGREES that a permanent parliamentary forum be established to enable the aboriginal peoples to express their rights, needs and aspirations.